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unfair and it is working a hardship on depositors in New Hampshire banks and what it is going to do is promote right away the withdrawal of money from the New Hampshire bank and put it in the Vermont bank. Now the popular thinking by the Banking Commissioner and the Banking industry is that this is discriminatory and they can establish this fact in court. That is a retaliatory thing but until they have the time to do that they need to have relief that is going to continue those deposits in New Hampshire banks. We are talking in the area of 60 million dollars which could be taken out of New Hampshire banks in the western part of the state July 1st or prior to that. This bill would exempt the depositors in Vermont banks from New Hampshire and Vermont banks. This neutralizes the act passed in Vermont. We are going to have some problems with neighboring states but while they are after us we will be after Vermont and it is hoped that we are going to settle with Vermont before anything else happens and as a result we will be right back where we are now which is where we want to be. As a temporary measure we need this law on the books and we need to have it as far before July 1st as can possibly be.

Sen. FENNELLY: Senator Downing as a member of the Ways and Means committee who heard this bill this morning, what we might be doing there is a possibility that this action might be unconstitutional, is that correct?

Sen. DOWNING: Let us just say that it is a rather unorthodox solution to an immediate problem.

Sen. FENNELLY: Mr. Upton gave us some testimony this morning that if we enact this something else might happen from the other states involved, is that true?

Sen. DOWNING: It is conceivable that it would bring litigation from other states but this is a stopgap measure. It is something that we are going to go after Vermont and hopefully that will be settled before anything else and then everything will be back in proper perspective.

Sen. BERGERON: Senator Downing did I understand by Senator Fennelly's questioning that there was a public hearing on this this morning?

Sen. DOWNING: No Senator we have a public hearing on the interest and dividends bill and at that time this amendment was offered to the committee on that bill and it was determined that rather than go the amendment route it should go on

its own merits and preferably on a separate bill.

Sen. BERGERON: Senator do you have any objection to having a public hearing on this bill?

Sen. DOWNING: I would have an objection only to the extent Senator that I don't feel it is necessary at this point, and it will receive one in the House which is one of the reasons why we brought it into the Senate first. We have to keep July 1st in mind and it isn't that you can just pass this law out of here on July 1st, you have to give the depositors sufficient notice that this is the position that New Hampshire has or you are going to start a run on the banks if you will and the economic impact on that and we did have testimony, would be disastrous. I might put out that we would have a loss of revenue, and it represents a loss of revenue of an estimated \$10,000 to the state. On the other hand if we don't do this then we are going to have a \$40,000 loss in franchise tax plus the business profits tax as a result of the economic impact whatever that would finally be.

Sen. BERGERON: Would it make any difference whether we acted on this today or whether we acted on it Thursday.

Sen. DOWNING: Senator I think it makes a great deal of difference and that is why it is before you now.

Sen. POULSEN: This bill is of the utmost importance to the towns on the western side of the state. If 60 million dollars slid away from us which it very well could in Vermont money, we would have a depression, all building, all home mortgages, anything that banks loan money on they would have to be saying no the money wouldn't be there. It would have a disastrous effect for a year or maybe two or three years before we finally equalized again. There was a question brought up by Senator Fennelly about the legality of the constitutionality of it. I think we often pass things that later prove to be unconstitutional but we do know that for an immediate remedy this would do it.

Sen. BRADLEY: I want to rise briefly in support of this as a Senator who has towns along the Vermont border. The way it works out is that New Hampshire happens to have a lot more savings banks along the border than Vermont does so we have been fortunate in attracting a lot more money, Vermont money, over here than vice versa. No question that without this law a great amount of the deposits in our banks here are going to be vulnerable to going back across the river. The report from the bank lobbyists who obviously have inter-

ests, he is receiving reports from individual banks that this law in Vermont has already begun to have an effect so yes I think there is a need to act quickly on this.

Sen. FENNELLY: I have no problems with the urgency of the bill, what I do have problems with is the testimony in committee this morning was that a bill of this magnitude was not known about by the banking commissioner in the state of New Hampshire until two weeks ago. And by the number of the bill it must have been filed earlier in the year. I asked the question as to how close these two states work together and I hope in the future any legislation on our border states that come out that the banking commissioner should be aware of it someway, somehow and we don't have to get into this situation again.

Sen. BLAISDELL: Mr. President, members of the senate, I rise in support of the bill and its urgency. I have some border towns in my district and even though Senator Bergeron hasn't had a public hearing really I think if we can get it through the Senate and over to the House we can take care of that public hearing.

Sen. FOLEY: Mr. President I rise reluctantly to support this bill. It is just another one of the stopgaps that we are encountering. It is a retaliation from Vermont and we are trying to get back at them now in a hurry. Massachusetts is going to lower its rooms and meals because we are going to raise ours so they will get back at us, Maine is having cheaper liquor on the border in order to combat the prices here and the Kittery store has cheaper liquor in order to get people across the bridge so we will buy theirs. In the meantime in our own liquor store at the circle the police from Massachusetts and Connecticut are watching the numbers of cars because we have people coming up and they should be, according to them, buying down there. Our fishermen have had a problem because the state of New Hampshire and the state of Maine have gotten together and had a treaty and most of our good lobster waters have been taken by Maine and our own people are unhappy and we are attempting unsuccessfully to get it back. Meanwhile the governor is going down trying to annex some of Massachusetts and getting Massachusetts all mad and Vermont and Massachusetts, Vermont and Maine are all trying to get some of the money back that we unconstitutionally took from them in income and didn't tax our own people. I think it is just going to be this type of retaliation and they are

all now, for a while they just sat back, and now one by one they are saying if this is the type of thing that New Hampshire is doing let's do our own thing and then we have to hurry in. It's lucky that we found out about this bill we could have been home at the end of the session and suddenly it would have come and the people who are on the border and the Littleton, Keene and Hanover banks would have had a problem. I think somewhere somebody has got to sit down and sanely decide what this state should do and until then we are just going to have to put up with these things and rise reluctantly and help the banks who obviously from what Senator Poulsen said, would be losing 60 million dollars of Vermont people's money. I think we ought to go home and just think about this, what are we doing, today we are going to stop this, but what about tomorrow.

Sen. ROCK: Senator Foley did I understand you to say that you thought SB 370 was a retaliation bill against Vermont?

Sen. FOLEY: It certainly is and it was the testimony of this morning. Vermont has just passed a bill saying they are going to tax the people who have put their money in these banks and now we retaliate and say you don't have to pay it—Massachusetts people will pay the interest but the Vermont people won't have to.

Sen. ROCK: Would you believe me that I have read the Vermont bill and it says if we do this they are not going to tax those people. So how would that be retaliation?

Sen. FOLEY: Because they are taking the money from our banks.

Sen. ROCK: No. Do you understand that if the status quo prevails, New Hampshire who has been taxing its citizens on money held in New Hampshire banks via the interest and dividends tax, and which has also been taxing its citizens on money in Vermont banks under the interest and dividends tax, which is the status quo would change with the passage of this bill to meet what Vermont is obviously calling to our attention in the form of red flag legislation. Vermont which has not taxed its citizens who have money in New Hampshire banks says unless New Hampshire begins to have some reciprocity here we are going to begin the tax on our Vermont people on the money they have in New Hampshire banks but if the New Hampshire legislature acts responsibly such as SB 370 does, then that bill will not go into effect.



Sen. FOLEY: That is not the way that we understood it this morning.

Sen. ROCK: If my explanation is true and correct then would you still say this bill is acting the way you originally said it.

Sen. FOLEY: I said it was a retaliation against the legislation that Vermont has just put through effective July 1.

Sen. FENNELLY: I agree with you 100% Senator Rock but it is the intent of why the bill was sponsored and in the testimony of committee it was in retaliation against the state of New Hampshire. I agree with you that that is what the bill says and if we do certain things then Vermont will rescind their action.

Sen. ROCK: What I am trying to get to is that this bill was referred to as retaliation. We talked about the unconstitutionality of the commuter tax and other things. Do you think this is a retaliation bill?

Sen. FENNELLY: Not SB 370 but the Vermont bill 368 is.

Sen. ROCK: Okay. You are saying Vermont is retaliating in an unfair manner not New Hampshire—we are trying to correct that situation.

Sen. FENNELLY: That is correct.

Sen. POULSEN: Senator Downing, this morning, was any testimony given about July 1 being a magic date when people draw interest and/or accounts out of banks?

Sen. DOWNING: July 1 is the date that the new Vermont law which is just flagrant attempt to disrupt the western New Hampshire economy as well as the tax base of the state. That is the date the bill becomes effective.

Sen. POULSEN: Do you agree that it is also the magic number that banks pay all interest on that date and anyone intending to withdraw money would do it on that date?

Sen. DOWNING: Yes.

Sen. TROWBRIDGE: Senator Downing following up on Senator Rock's remarks, they were not retaliating now although we are taking a move but the real problem way back was that New Hampshire taxed the income of Vermont citizens coming off of New Hampshire's deposits. Wasn't that the source from whence Vermont then said we have to do something and now we finally are being brought back by their action by a point of equity where we don't tax their deposits and they don't tax ours. Isn't that really what is coming off?

Sen. FENNELLY: Your final statement, I think that is the way Vermont looks at it.

Adopted. Ordered to third reading.

### **Special Order 1:01**

HB 790, relative to cancer drug therapy.

Motion to indefinitely postpone.

Sen. Bradley moved an amendment to HB 790.

### **Amendment to HB 790**

Amend RSA 329:30, I as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

I. Miscellaneous Provision. No hospital or health facility may interfere with the physician-patient relationship by restricting or forbidding the use of amygdalin (laetrile) when prescribed or administered by a physician and requested by a patient, but this provision shall not be construed to require any hospital or health facility to stock amygdalin (laetrile) in its pharmacy. A hospital or health facility shall not be liable for any damages resulting from the introduction of amygdalin (laetrile) by a physician onto the premises contrary to any regulation of the hospital or health facility.

Sen. BRADLEY: This amendment is to take care of a problem which the hospital in my locality feels that they would be faced with under the bill as it is originally written. The problem there is simply this: the hospital like many hospitals has its own pharmacy and what drugs go into that pharmacy is very carefully controlled and is governed by all kinds of rules, regulations, federal and otherwise I guess. And no doctor in the hospital can prescribe to patients within the hospital except within that pharmacy. Now they read this bill and they say well we can't restrict or prohibit the use of laetrile, that has got to mean that we have to make it available in our pharmacy doesn't it, and I say I don't know the answer to that question. And they say what if a doctor brings it in in violation of our policy that you can't prescribe except from what is in our pharmacy, are we still responsible or liable, again I didn't

know the answer. Therefore I have this amendment prepared which simply says that by passing this bill if we do that we are not requiring the hospitals to stock the stuff in their pharmacy which would get them into trouble under all sorts of things. Federal funding and I don't know what. But it could. And if the doctor on his own wants to prescribe the stuff, that he is on his own, that it is not the hospital that is somehow responsible if it allows a doctor to do it. That is all I am saying if the doctor wants to do it it does not make the hospital responsible.

Sen. ROCK: In your amendment is there anything that could be construed in anyway that had anything to do with any other pharmacies other than hospital pharmacies?

Sen. BRADLEY: No and I don't think it can be read that way. It's pharmacies are referring to its own pharmacies.

Sen. ROCK: I ask this question only because I don't know the answer. Are there any hospitals in the state that do not have an in-house pharmacy?

Sen. BRADLEY: I don't know, I think the typical case is the same as the case in our hospital here.

Sen. ROCK: If there were a case where a hospital did not have an in-house pharmacy and used pharmacies in the community to prescribe the drugs what would be the status of your amendment?

Sen. BRADLEY: I don't think it would have any effect on it.

Sen. BLAISDELL: The veterans home doesn't have a pharmacy. They get their's in the small town of Tilton. This wouldn't affect them at all?

Sen. BRADLEY: No not the amendment.

Sen. TROWBRIDGE: All I would like to say is that I have been for SB 790 for the basic theory that you have all heard of, it is called freedom of choice. However I think we do have to respond when something as responsible as the Mary Hitchcock clinic and those kinds of persons come in and offers an amendment that does not in any way, at least my reading of it anyway, prevent patients from getting laetrile if he wants it. That is really what the bill is all about. At that point I think we ought to take the advice and accept the amendment because it doesn't hurt the bill.

Amendment adopted.

Motion to indefinitely postpone.

Sen. ROCK: Thank you Mr. President. I rise in opposition to the motion to indefinitely postpone of Senator Smith. I would like to read a letter that was sent from the Dartmouth medical school and I don't know the person who signed the letter but he speaks to some of the thoughts of people on this issue.

"Dear Senator: As you are aware there is sufficient evidence of the effectiveness of laetrile as a preventative and a cure for cancer that it should be available for use by physicians. Therefore I would strongly encourage you to vote in favor of legalizing laetrile when HB 790 comes before the senate on May 31. Signed Nancy Peacock, Dartmouth medical school." I would like the senate to realize that the legislatures in Alaska, Indiana, and in Florida have legalized the use of laetrile and New Hampshire is just one of many other states considering similar action. The thing that impressed me most in the hearing was that while there was a great indication of people wishing to have this drug or I would prefer to call it a vitamin, available, there was not one single instance that showed that there had been any harm or that anyone had been injured in any way by the taking of this vitamin. I think that you make the people in our country criminals by having them import from Mexico or Germany or other foreign lands, a substance that they believe will correct this nutritional deficiency, is the wrong way to go about it. I strongly oppose this present motion and I strongly recommend that this present HB 790 should be adopted.

Sen. SMITH: I rise in support of the motion to indefinitely postpone. I received the same letter from Mrs. Peacock from Dartmouth and I don't know who she is or anything about her. But I have here a telegram that is signed by Dr. Strickler who is dean and professor At Dartmouth medical school, Ross McIntyre, professor of medicine, Dartmouth medical school and the telegram says: "The value of laetrile in cancer is scientifically unproven. The legalization of laetrile is strongly opposed by the American Cancer Society, the National Cancer Institute of the Food and Drug administration and the overwhelming majority of cancer authorities. These organizations all believe that cancer patients have the need and the right to be protected against unscrupulous promoters of unproven remedies like laetrile. We strongly agree with this view and we reaffirm that passage of HB 790 is not in the public interest. Let me just add a few words. The National Cancer Institute has performed tests on over 300,000 types of



chemicals. An endeavor to find those which may be of some assistance to cancer. Recently in the newspapers we have heard that they are going to do more tests on laetrile on humans. Which is fine but I think it is early to pass such legislation with people feeling that this is the great hope. We had crybasun a few years ago which was going to be the big cure for cancer. That has faded into oblivion. We have a problem of safety and control over this drug and the use of it, by people, we don't know the strength because there will be no control until it is proven and tested; until it is legal on a national basis. We don't know what is in the drug, whether it be watered down or spiked in some fashion. To put these hopes on the people suffering from cancer I think is a negligent act upon the state senate to approve such legislation. The people of which I have testimony that I won't read, of people who have taken laetrile because they didn't want to face the reality, they didn't want to go in for surgery or chemotherapy and they heard from somebody who called on them that this was the answer to cancer and it was too late by the time they got back to see their doctors. I just hope that the senate will not be carried away by an emotional fervor and let people take this drug when it may very well be something which they take because of the emotional strain and the emotional pressures which are put upon a person when they find they have cancer and they want to find a cure-all. I hope the senate will look long and hard at this bill and I am highly sympathetic to those who have cancer. I have members in my own family. To promote this kind of a thing without proving its value is making or encouraging people to find the easy way out. If the National Cancer Institute tests and proves that laetrile may be of some value I would be the first to go along with the passage of such legislation. But when there is no proof and we spend millions and millions and millions of dollars on cancer research, on educating people to be knowledgeable in the area of cancer and then we take this short cut, this expediency because somebody says it has help without any proven scientific value, I think it is a mistake. In conclusion all I have to say is that Joe Coty is the sponsor of the bill, he has a sign on his car, cure cancer with laetrile. Now I think that is asking somebody to go to a witch doctor. I hope and pray that the Senate will turn this thing down on the basis of protecting the sound practice of medicine in the state.

Sen. SANBORN: Senator somewhere in your conversation

you said something about the Food and Drug Administration. Are they the same people that told me without much evidence that if I drink 400 or 800 gallons of some low cal drink with saccharin in it I would be bloated?

Sen. SMITH: Senator I think this is a very different question. We talked about saccharin and tab before. I am not just talking about the Food and Drug Administration, I am talking about past experience in medicine with people wanting a cure-all. I am talking about responsible medical people in this state, I am talking about the American Cancer Society and many many groups who have spent hours and years working on cancer who say at this time that there is no proven cure through laetrile and that until such time that they can find something I would hope that the Senate would not allow this to be utilize this in the state and be taken in.

Sen. SANBORN: Without beating around the bush, I recognize your ability to speak, however is this the same Food and Drug Administration?

Sen. SMITH: Certainly Senator. Some people I have an axe to grind with the Food and Drug Administration, I am talking about the American Institute for Cancer, American Cancer Society and the American medical profession.

Sen. ROCK: I wonder Senator, would you now as we often do and stop the clock, but would you do with me one thing more than stop the clock, would you come with me as we turn the clock back now. And you are in the Senate chamber and the year is 1935 and someone introduced a bill in the Senate to allow patients in New Hampshire to take moldy old stale bread and rub it on wounds to cure infection. Do you think we might be hearing the same arguments today that led to abandoning or prohibiting penicillin as it was effective during World War I—aren't you using the same arguments?

Sen. SMITH: No.

Sen. SAGGIOTES: I rise very strongly in opposition to the motion that was offered by Senator Smith. I had the opportunity to sit through the entire hearing that was held on this bill and we had testimony on both sides, in favor and in opposition. The only doctor who testified under questioning, testified that there is no harm that he could testify to that would be derived from Laetrile. On the other hand, we had at least in my opinion, living proof from people who had used the drug, who had been given up as terminal cases, of cancer, who had used the drug and now have been able to go back to work and

be useful citizens again. Up until the hearing time I had not made up my mind as to which way I would go on this bill. But the people who had used the drug that had come in to testify in favor of the bill was sufficient evidence for me to give this drug to the people who would like to have it, particularly where the medical people cannot prove yet that it might be harmful. I strongly urge the senate to vote in favor of the bill and in opposition to the motion.

Sen. Blaisdell moved the previous question.

Adopted.

Sen. Lamontagne requested a roll call. Seconded by Senator Provost.

The following Senators voted yea: Smith, Bradley, Fennelly.

The following Senators voted nay: Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Healy, Sanborn, Provost, Brown, Bossie, Downing, Preston, Foley.

3 yeas      20 nays

Motion failed.

Ordered to third reading.

### **Special Order 1:02**

HB 804, conforming the New Hampshire clean air act to the requirements of the federal Environmental Protection Agency.

Question of inexpedient to legislate.

Sen. Hancock requested a roll call. Seconded by Sen. Blaisdell.

The following Senators voted yea: Lamontagne, Poulsen, Bergeron, Saggiotes, Monier, Healy, Sanborn, Provost, Brown.

The following Senators voted nay: Smith, Gardner, Brad-

ley, Blaisdell, Trowbridge, Keeney, Hancock, Bossie, Fennelly, Downing, Preston, Foley.

9 yeas      12 nays

Motion failed.

(Sen. McLaughlin recorded in favor of the motion.)

Sen. Hancock moved that the words "ought to pass" be substituted for the words "inexpedient to legislate."

Sen. HANCOCK: Mr. President I would like to speak against the motion inexpedient to legislate. The house committee on environment and agriculture spent a great deal of time on this bill. It is their feeling that this bill is necessary in order to bring the state of New Hampshire in conformance with the EPA regulations and in order to keep the state of New Hampshire free of air pollution, to set up necessary standards, regulations and I would recommend that we vote against the motion inexpedient to legislate.

Sen. BRADLEY: I am sorry I missed the debate on this thing, I have sponsored several bills with the attorney general's office to bring different things in line with the federal regulations and I look at this just on the surface of it as another one of those and I would like to know what is wrong with the bill, why shouldn't we do that?

Sen. MONIER: If I recall Senator Bradley, two things were brought up. One was the emission controls from the automobiles, one of which was that none of our inspection stations would have the equipment necessary to monitor that under the particular law and the laws of New Hampshire and it would require therefore, that if we pass it, the state conduct those kinds of tests and they don't have the equipment. The second issue that I recall, and I am doing this off of my head was that the current law, or bill in New Hampshire is more stringent than what is now being considered for revamping by the federal law reported on the books. The federal law changes to less we are going to have a more strict consideration than what they are. Part of the argument given for it was that we ought to conform with federal law. I think those were the two basic issues. Senator Brown reported it but I believe that is what it was.



Sen. Lamontagne moved that HB 804 be laid on the table.

Division vote: 11 senators voted yea; 12 senators voted nay.

Motion failed.

Sen. Poulsen requested a roll call. Seconded by Sen. Blaisdell.

The following Senators voted yea: Smith Gardner, Bradley, Blaisdell, Trowbridge, Keeney, Hancock, Bossie, Fennelly, Downing, Preston, Foley.

The following Senators voted nay: Lamontagne, Poulsen, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown.

12 yeas      11 nays

Motion of substituting "ought to pass", adopted.

Sen. Rock moved that HB 804 be made a special order for Thursday, June 2 at 11:02 a.m.

Sen. ROCK: Mr. President, I have supported and voted for issues that I did not particularly favor when one Senator or another has asked for a special order all session. I hope that the Senators will give me that courtesy today.

Sen. TROWBRIDGE: I think there is a time when a special order does not become another special order. If we are ever going to get through this session we are going to have to take our votes when they are here, everybody is here in their places and I think this is a movement to try and bend some arms and I think we ought to vote it down.

Sen. BRADLEY: Senator I appreciate the fact of what you said and I believe you have extended that courtesy to me on occasion. I have always felt as though I felt some obligation to say why I was asking for the special order and I wonder if you could inform us as to your reasons why?

Sen. ROCK: I'd be glad to. Just before the debate started on HB 804, I had asked the chairman of the Nashua Delegation in the House of Representatives to try to bring the Nashua Delegation together on what is probably the most serious problem facing our community in this decade. It has to do with a subject the Senators voted on, not only once or

twice but three times and reconsidered and still sent it out in its same form. The bill is having a tremendous amount of difficulty in the House because of petty bickering and feuding between Merrimack Representatives and because of sour grapes over a tax fight they lost in court. The house broke, just now, and I knew that I would have that Nashua Delegation for just a few minutes for they like a lot of us, want to go home. I rushed downstairs, Senator McLaughlin was there, I spoke for probably ten minutes to them and tell them the seriousness of the issue facing Nashua water. Because I had to be down there I couldn't be up here for this debate. I would like to have it as a special order and I believe it is the first time that I have asked for a special order.

Sen. FENNELLY: I remember Mr. President last session when a special order was requested on behalf of Senator Rock on a student trustee bill and we granted that particular special order. He returned and I made a motion for a special order, that is the bill the governor vetoes and lo and behold I was rejected on my special order.

Sen. SAGGIOTES: I just wonder if Senator Rock wants a debate is there any way we can get this bill back on so we can have the debate again, would that help you?

Sen. ROCK: If you want to reject it go ahead.

Division vote: 16 senators voted yea. 6 senators voted nay.  
Adopted.

### **Special Order 1:03**

HB 286, increasing the number of fish and game commissioners from 10 to 11 by providing for two commissioners from Rockingham County.

Sen. Preston moved that HB 286 be made a special order for Friday, June 3 at 11:01 a.m.

Sen. PRESTON: If I may explain Mr. President, there is an additional amendment that Senator Blaisdell is having prepared, it isn't completed and it will be ready for tomorrow.

Sen. ROCK: I'll support your order for a special order and I appreciate the courtesy the Senate just gave me because I couldn't be here, would you consider another day and another

time so we could avoid special orders on Wednesday for some obvious reasons.

Sen. MONIER: This special order was made so that we could have an amendment made to a bill to bring it in because the committee had two bills almost alike and we wanted to combine them into one. It was done and number 2 we are ready for it. It had an error in it and we had to correct it and Senator Blaisdell did not see the error and wants to make an amendment to it and it is an agreed upon special order of business for that purpose. I think that Senator Rock has a good point and if Senator Preston would not object maybe Thursday would be a good day for it or Friday.

Adopted.

### SUSPENSION OF RULES

Sen. Trowbridge moved that the rules of the Senate be so far suspended for the rest of the session as to allow that all special orders be taken up each day as the first order of business.

Sen. Sanborn moved an amendment to the motion of Sen. Trowbridge.

Change the words "first order of business" to read "one hour after the opening."

Amendment adopted. Motion of suspension adopted.

(Sen. Downing, Fennelly, Smith, Saggiotes, Bergeron voted in opposition.)

Sen. Bossie moved that HB 679, 280 and 703 be made a special order for 11:01, 11:02, 11:03 a.m. for Tuesday, June 7.

Division vote: 18 senators voted yea; 2 senators voted nay.

Adopted.

### HOUSE MESSAGES HOUSE CONCURS

The House has voted to concur in the amendments to Joint Rules as adopted by the Honorable Senate.

## HOUSE NONCONCURS IN SENATE AMENDMENT AND REQUESTS COMMITTEE OF CONFERENCE

HCR 8, establishing a special joint committee to review the fact-finder's report submitted to the Legislature in regard to contract negotiations between the State of New Hampshire and the State Employees Association.

The Speaker appointed Reps. Roberts, French, Coutermarsh, and Plourde.

Sen. Rock moved to accede to the Speaker's request for a committee of conference.

Adopted.

The Chair appointed Senators Rock, Smith and Downing.

## ENROLLED BILLS REPORT

HB 308, relative to the employee discount utilized by electric utilities.

HB 388, relative to the monthly rate for the care, treatment, maintenance and training of any resident of the Laconia state school and training center.

HB 426, revising the state tax on dog racing.

Sen. Lamontagne for the committee.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Wednesday, June 1, at 1:00 p.m.

Adopted.

## LATE SESSION Third Reading and Final Passage

HB 290, relative to increasing the insurance requirements of motor vehicle drivers' schools.



HB 1144, relative to the establishment of workmen's compensation self-insurance programs.

HB126, relating to certain acts prohibited by insurance company officers and directors.

HB 825, providing for a referendum to determine the form of city government for Dover.

HB 826, establishing a primary for Rochester city elections.

HB 1156, relative to the property tax lien for the elderly and disabled.

HB 242, restricting the horsepower of motorboats operating upon White Oak pond in Holderness.

HB 371, relative to the use of highway relocation funds.

HB 629, altering gross weight and axle distribution limits for 5 axle trucks; providing for an increase in registration fees; and limiting vehicle loads to the rated capacity as determined by the manufacturer.

HB 830, relative to road toll rebates.

HB 861, relative to the regulation of odometers.

HB 939, authorizing the director of the division of motor vehicles to issue a 5 day permit for a motor vehicle, trailer, semi-trailer, or tractor.

HB 1057, relative to tax abatement on municipal airport property in Manchester and Londonderry.

HB 964, relative to a motor vehicle franchisor's responsibilities for warranties.

HB 229, amending certain provisions of the statutes relative to OHRVs.

HB 832, amending certain time limits under the uniform motor vehicle certificate of title law.

HB 854, authorizing the director of the division of motor vehicles or his agents to examine vehicles in certain locations.

HB 384, to reclassify a certain section of highway in the town of North Hampton.

HB 196, authorizing the issuance of non-driver's identification cards.

HB 494, establishing a staggered registration system for motor vehicles and changing registration and municipal permit fees.

SB 370, exempting from taxation interest on certain out of state bank deposits.

HB 790, relative to cancer drug therapy.

Adopted.

Senator Poulsen moved to adjourn at 6:50 p.m.

Adopted.

## *Wednesday, June 1*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by Senator Preston:

Our Father, we clearly understand what public service means—aid us in carrying out the Democratic process as intended by our Forefathers. Let us not turn a deaf ear on the minority, for in their words is a message of wisdom. Let not a majority, without careful listening, impose its will on others. God, please help us to act in the best interests of all.

Amen

Sen. Bossie led the Pledge of Allegiance.

### HOUSE MESSAGES HOUSE CONCURS

**SB 140**, relative to the liability of landowners.

**SB 79**, increasing the permissible amount of assets under the expanded elderly exemption law.

**SB 325**, amending the charter of the union school district of Keene to provide that a candidate for school district office shall file his declaration of candidacy no earlier than 45 days and no later than the fifth Monday next preceding the district election.

**SB 248**, relative to the taking of alewives and river herring.

**SB 255**, relative to female lobsters.

**SB 141**, prohibiting the use of minors in pornographic acts, pictures, displays and the sale or custody of any such material in the state.

**SB 196**, repealing the requirement that prescription drugs be kept in their original container.

**SB 290**, relative to the state library acting in an advisory capacity to state institutional libraries.

**SB 158**, relative to closing of state liquor stores on Christmas eve and New Year's eve.

**SB 145**, relative to motor vehicle repair facilities.

**SB 227**, relative to the expiration dates of licenses granted to insurance companies, agents and adjusters.

**SB 354**, relative to investment of funds of certain fiduciaries.

**SB 314**, permitting the assembly and voluntary participation of public school pupils in the free exercise of religion during a 5 minute period before the start of the official school day.

**SB 247**, relative to the limitation on receiving assistance from the federal government and the state for sewage disposal facilities.

### HOUSE REFUSES TO CONCUR

**CACR 15**, relating to the power of the general court. Providing that no statute may require political subdivisions to provide services unless 100 percent of the funding is provided by the state.

**CACR 17**, relating to constitutional amendments at special sessions. Providing that no constitutional amendment may be proposed at any special session of the general court.

**CACR 19**, relating to recall of elected officers. Providing that any elective officer, except judicial officers shall be subject to recall by the voters.

**CACR 20**, relating to qualifications for governor and councilors. Providing that the age requirement be reduced from 30 to 25.

**CACR 22**, relating to composition of the general court. Providing that the membership of the house of representatives shall be reduced to 300.

**CACR 23**, relating to a citizens' referendum on any general sales or income tax. Providing that sales and income taxes may not take effect until after approval by a majority of qualified voters of the state present and voting on the subject.

**CACR 25**, relating to executive council. Providing that the executive council be abolished and its powers to confirm various appointments be vested in the Senate.

**SB 106**, relative to the policy of the state concerning advertising by state agencies.

**SB 126**, relative to police officer's attendance at public functions.

**SB 155**, requiring all mobile telephone service companies and radio paging service companies doing business in the state to be regulated by the public utilities commission.

**SB 159**, to implement a special state referendum with respect to state revenue sources and government costs and making an appropriation therefor.

**SB 170**, relative to certain free licenses for all totally and permanently disabled veterans, if disabled while on active duty from a service connected disability.

**SB 228**, relative to indicating legislative intent in all statutes enacted by the general court.

**SB 233**, relative to legal guardianship of the developmentally disabled.

**SB 309**, providing for the stamping and sale of skins.

**SB 322**, relative to four-lane highways and rights of way.

**SB 328**, restructuring the office of legislative services and creating an office of revisor of the statutes.

**SB 356**, relative to the scope of the hearings conducted by the appeals board of the health and welfare advisory commission.

**SCR 4**, to petition Congress to call a convention to propose an amendment to the United States Constitution to require a balanced federal budget, except in a national emergency.

## HOUSE REFERS TO INTERIM STUDY

**SB 183**, relative to the establishment of village districts.

**SB 257**, relative to commercial salt water fishing.

**SB 256**, relative to the reporting of lobster catch.

**SB 286**, revising the pharmacy laws.

**SB 262**, creating a New Hampshire athletic trainers board.

**SB 146**, relative to the posting of a bond or certification of assets by every manufacturer of mobile homes to insure warranties.

**CACR 21**, relating to establishing a unicameral legislature for New Hampshire. Providing that the general court of New Hampshire be unicameral.

**CACR 18**, relating to the number of constitutional amendments on any one ballot and the time of their presentment to the voters. Providing that not more than 4 proposed constitutional amendments shall appear on any one ballot and said proposed amendments shall be presented only at the biennial elections.



## HOUSE REQUESTS CONCURRENCE IN AMENDMENT

SB 217, prohibiting smoke bombs.

The Chair ruled that the House amendment is nongermane and under rule No. 21 returned the amendment to the House.

SB 185, relative to penalties for violation of fish and game offenses and repealing the taking of trout less than six inches in length. The Chair ruled that the House amendment is nongermane and under rule No. 21 returned the amendment to the House.

SB 122, prohibiting the manufacture, transportation, possession, or use of virulent hog cholera virus and redefining the word garbage in RSA 144 relative to the feeding of garbage to swine.

See House record page 2443.

Sen. Blaisdell moved to concur in the amendment.

Adopted.

## ENROLLED BILLS REPORT

HB 305, reclassifying certain positions at Laconia state school.

HB 648, an act clarifying certain penalty provisions in the uniform motor vehicle certificate of title and anti-theft act (RSA 269-A).

HB 740, relative to the use of emergency lights.

HB 851, relative to the use of privately purchased telephones on the existing telephone system.

HB 910, relative to double doors.

Sen. Lamontagne for the committee.

Sen. Sanborn in the chair.

## COMMITTEE REPORTS

HB 481, amending the charters of certain savings banks. Ought to pass with amendment. Senator Poulsen for the committee.

## Amendment to HB 481

Amend the bill by striking out section 6 and inserting in place thereof the following:

6 Conversion of Mutual Savings Banks to and from Federal Mutual Savings Banks. Amend RSA 389-A:5 (supp), as inserted by 1969, 371:1 by striking out said section and inserting in place thereof the following:

389-A:5 Conversion to and From Federal Charter.

I. A mutual savings bank may convert itself into a federal savings and loan association or a federal mutual savings bank in accordance with the provisions of section 5 of the Federal Home Owners' Loan Act of 1933, as now or hereafter amended, by following the procedure prescribed for conversion of building and loan associations into federal savings and loan associations in RSA 393:46-48, inclusive, and for this purpose shall have all the rights, powers and privileges of a converting building and loan association under these sections. Upon the grant of a federal charter, the institution receiving the same shall cease to be a mutual savings bank incorporated by state law and shall no longer be subject to state supervision and control.

II. Any federal savings and loan association or federal mutual savings bank doing business in this state may convert itself into a mutual savings bank created under the laws of this state, in accordance with the procedure prescribed for conversion of federal savings and loan associations into building and loan associations in RSA 393:50-54, inclusive, and for this purpose shall have all the rights, powers and privileges granted to converting federal savings and loan associations under these sections; provided however, that the form of the articles of agreement required by RSA 393:51 shall conform to the provisions of RSA 386-A insofar as applicable; that the provisions of RSA 386-A and all other general laws relating to savings banks shall apply to the converted institutions; and that the bank commissioner may provide, by regulation, for the procedure to be followed by any such converting institution.

7 Conversion into Federal Mutual Savings Banks. Amend

RSA 393:46 by striking out said section and inserting in place thereof the following:

393:46 Conversion Into Federal Savings and Loan Associations. Any building and loan association or cooperative bank of this state either of which is hereinafter referred to as association, doing a home-financing business may convert itself into a federal savings and loan association or a federal mutual savings bank in accordance with the provisions of section 5 of the Federal Home Owners' Loan Act of 1933, as now or hereafter amended, upon a vote of 51 percent or more of the votes of the members present and voting at an annual meeting or at a special meeting called to consider such action; notice of such meeting to vote on conversion shall be mailed at least 20 and not more than 30 days prior to the date of the meeting to each member of record at his last known address as shown on the books of the association. A copy of the minutes of the proceedings of such meeting of the members, verified by the affidavit of the secretary or an assistant secretary, shall be filed in the office of the bank commissioner within 10 days after the date of such meeting. Such certified copy of the proceedings of such meeting, when so filed, shall be presumptive evidence of the holding and action of such meeting. Within 3 months after the date of such meeting, the association shall take such action in the manner prescribed and authorized by the laws of the United States as shall make it a federal savings and loan association or federal mutual savings bank.

8 Conversion of Federal Mutual Savings Banks. Amend RSA 393:54 by striking out said section and inserting in place thereof the following:

393:54 Federal Conversion. Upon the conversion of a federal savings and loan association or a federal mutual savings bank into a state building and loan association or cooperative bank, the corporate existence of such federal association or bank shall not terminate, but such state association shall be deemed to be a continuation of the entity of the federal association or bank so converted and all property of the converted association or bank, including its rights, titles and interests in and to all property of whatsoever kind, whether real, personal, or mixed, and things in action, and every right, privilege, interest, and asset of any conceivable value or benefit than existing, or pertaining to it, or which would inure to it, shall immediately by act of law and without any conveyance

or transfer and without any further act or deed remain and be vested in and continue and be the property of such state association into which the federal association or bank has converted itself, and such state association shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by the converting federal association or bank and such state association as of the time of the taking effect of such conversion shall continue to have and succeed to all the rights, obligations, and relations of the converting federal association or bank. All pending actions and other judicial proceedings to which the converting federal association or bank is a party shall not be deemed to have been abated or to have been discontinued by reason of such conversion, but may be prosecuted to final judgment, order or decree in the same manner as if such conversion had not been made and such state association resulting from such conversion may continue such action in its corporate name as a state association, and any judgment, order or decree may be rendered for or against it, which might have been rendered for or against the converting federal association or bank theretofore involved in such judicial proceedings.

9 Effective Date. I. Sections 1 through 5 of this act shall take effect upon its passage.

II. Sections 6 through 8 of this act shall take effect 90 days after its passage.

Sen. POULSEN: Mr. President, the amendment is on page 11 of the calendar. The amendment allows savings banks to use a dual chartering system which would be both federal and state. The bill itself changes the charters of five banks and I can give you the changes if you are interested but this is the last chartering bill we will have because we now have established a new and easier method of chartering; they don't have to go through legislation from here on to get their charters changed.

Sen. ROCK: Mr. President I rise briefly in support of Senator Poulsen.

Amendment adopted. Ordered to third reading.

HB 856, relative to the inspection of used motor vehicles offered for sale by retail dealers. Ought to pass with amendment. Sen. Lamontagne for the committee.



## Amendment to HB 856

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 358-C the following chapter:

## CHAPTER 358-D

## Sale of Unsafe Used Motor Vehicles; Inspection

358-D:1 Definitions. As used in this chapter:

I. "Customer" means any person who is seeking to purchase, is purchasing, or has purchased a used motor vehicle at retail.

II. "Dealer" means any person who is engaged in the business of selling at retail used motor vehicles.

III. "Person" means any person defined by RSA 358-A:1, I.

IV. "Used motor vehicle" means any motor vehicle as defined by RSA 259:1, XVII which has been previously leased, rented, or sold at retail.

358-D:2 Inspection. Before selling to any customer any used motor vehicle which is unsafe for operation upon the highways pursuant to RSA 260:52-a, the dealer shall, upon the request of the customer, conduct or have conducted a safety inspection of such vehicle. If the vehicle is found to be unsafe for operation, the dealer may sell the vehicle to the customer without correcting the defects, but only if the dealer presents to the customer at the time of sale a notice which states:

This motor vehicle will not pass a New Hampshire inspection and is unsafe for operation. The following defects must be corrected before an inspection sticker will be issued.

The dealer shall list all inspection defects under this statement and specify the date on which the inspection was conducted and the person who performed the inspection. The dealer may make a reasonable charge for conducting the inspection.

358-D:3. Notice of Rights. Each dealer shall notify each customer of his rights under this chapter before selling an unsafe used motor vehicle to the customer and shall obtain a written acknowledgment from the customer that he has been so notified.

358-D:4 Remedy. A failure of any dealer to comply with the provisions of this section, or a concealment by any dealer of any defect which was discovered, or should have been discovered, during the inspection required by RSA 358-D:2 is an unfair or deceptive act or practice within the meaning of RSA 358-A:2. Any right or remedy set forth in RSA 358-A may be used to enforce the provisions of this chapter.

Sen. LAMONTAGNE: Mr. President, members of the Senate, the amendment of this bill is for unpaid used motor vehicles inspections. Any car that does not pass inspection, the inspection station must report to the motor vehicle department that the car has been sold and that the sticker has to be taken off of the windshield and therefore a special sticker is put on that the car has not passed the inspection.

Sen. PROVOST: Once that sticker is on, what do you do with it?

Sen. LAMONTAGNE: After a sticker has had an unsafe sticker put on the windshield it stays on until the car has been put back into repairs and then the regular sticker is put on to the windshield.

Sen. PROVOST: How long can you ride with that sticker?

Sen. LAMONTAGNE: You cannot run a car that has not been inspected.

Sen. PROVOST: Why the sticker?

Sen. LAMONTAGNE: This is a special sticker that you put on when the car is unsafe.

Amendment adopted. Ordered to third reading.

## INTRODUCTION OF GUESTS

HB 326, adopting the provisions of the uniform vehicle code pertaining to the operation of emergency vehicles. Ought to pass. Sen. Poulsen for the committee.

Sen. POULSEN: The amendment which is very important to this bill was omitted and it has to be put back on in committee so I move that it be recommitted so we can put the amendment back on.

Sen. Poulsen moved that HB 326 be recommitted to the committee on transportation.

Adopted.

HB 218, renaming the bureau of off-highway recreational vehicles and establishing an additional responsibility for the bureau. Ought to pass with amendment. Sen. Poulsen for the committee.

#### Amendment to HB 218

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

renaming the bureau of off-highway recreational vehicles; renaming the supervisor of the bureau; and creating additional responsibilities for the bureau.

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 Supervisor Renamed. Amend RSA 269-C:3, V (supp) as inserted by 1975, 459:1 by striking out in line one the word "supervisor" and inserting in place thereof the following (director) so that said paragraph as amended shall read as follows:

V. The director of the bureau in the interest of safety may make such rules and regulations he deems necessary for the use and control of OHRV trails, facilities and lands under bureau control or lease. These rules and regulations shall be printed in any guide books published and posted at proper locations throughout the bureau trail system. A person who fails to observe these rules and regulations shall be subject to the same penalties provided for other sections of this chapter.

5 Supervisor Renamed. Amend RSA 269-C:13, II (supp) as inserted by 1973, 560:1 by striking out lines 2 and 3 the words "supervisor of the bureau of off-highway recreational vehicles" and inserting in place thereof the following (director of the bureau of off-highway recreational vehicles and trails) so that said paragraph as amended shall read as follows:

II. The commissioner of the department of resources and economic development shall appoint a director of the bureau of off-highway recreational vehicles and trails, who shall have additional duties as state parks and forest security officer and

shall be classified in the state police and fish and game law enforcement series with authority under RSA 594. The commissioner of the department of resources and economic development shall, at his discretion, also appoint bureau of off-highway recreational vehicles area supervisors and foremen, who shall be peace officers for the purposes of RSA 594.

6 Supervisor Renamed. Amend RSA 269-C:13-a (supp) as inserted by 1975, 459:3 by striking out in line 4 the word "supervisor" and inserting in place thereof the following (director) so that said section as amended shall read as follows:

269-C:13-a Law Enforcement Authority of BOHRV Officers. The commissioner of the department of resources and economic development may designate employees of the bureau as forest and park patrol officers. The director appointed under RSA 269-C:13 and the forest and park patrol officers shall have the authority of peace officers as defined under RSA 594:1 to enforce the provisions of this chapter anywhere in the state and all rules and regulations of the department of resources and economic development on lands owned by, leased to or under control of the department of resources and economic development. Forest and park patrol officers shall also have authority as peace officers under RSA 594:1 to enforce laws dealing with trespass, litter, breaking and entering, larceny and vandalism on lands owned by, lease to or otherwise being used by the state in connection with official recreational or OHRV trails.

7 Effective Date. This act shall take effect 60 days after its passage.

Sen. POULSEN: This amendment does several things. Primarily, it changes the name of the supervisor to director. So Paul Doherty becomes Director of the Department of OHRV. The bill itself adds to their duties, the policing of state parks, it gives them police protection in the course of their duties but not police protection on the roads.

Amendment adopted. Ordered to third reading.

HB 213, relative to reconsidering an action taken at a town meeting, village district or school meeting district. Ought to pass with amendment. Senator Monier for the committee.



## Amendment to HB 213

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Town Meeting; Reconsideration of Vote. Amend RSA 40 by inserting after section 4-b the following new section:

40:4-c Reconsideration. No vote of a town meeting may be reconsidered unless there are an equal or greater number of qualified voters present at the time of reconsideration as there were originally voting on the question.

2 Village District; Reconsideration of Vote. Amend RSA 52 by inserting after section 15 the following new section:

52:15-a Reconsideration. No vote of a village district may be reconsidered unless there are an equal or greater number of qualified voters present at the time of reconsideration as there were originally voting on the question.

3 School District; Reconsideration of Vote. Amend RSA 197 by inserting after section 13 the following new section:

197:13-a Reconsideration. No vote of a school district meeting may be reconsidered unless there are an equal or greater number of qualified voters present at the time of reconsideration as there were originally voting on the question.

4 Effective Date. This act shall take effect 60 days after its passage.

Sen. MONIER: This bill came in and ostensibly had a very good purpose; to stop midnight type of considerations with respect to school districts and town meetings in which the reconsideration or action taken usually took place after some particular groups of people had gone home. However, we did find some fault with the bill itself and we did amend it and the amendment is on today's calendar on page 14. There are two major considerations with it. One, it deals with it by town meeting and school district and I would like to take a minute to look at it because we are involved with those at all times but in town meeting that, for reconsideration, no vote at a town meeting may be reconsidered unless there are an equal or greater number of qualified voters present at the time of reconsideration as there were originally voting on the question. We went along with this and we recognize that it means a moderator is either going to have to, on a controversial issue, ask for a ballot question or have a division. If

they do not then there will be no way to know what the numbers were. The second aspect to this is that a moderator could accommodate this by numerically having a running numerical count as each warrant was taken up and we have had two moderators say that this could be done simply and in an easy fashion. The village district which is the second area that was covered was the same. No vote or voter of the district may be reconsidered unless an equal or greater number of qualified voters is present at the time of reconsideration as there were when originally voted. The school district has the same thing. The original bill also dealt with the idea that some particular adjourned meeting or recessed meeting and the answer to that was that we left it out and stated that once again it would be the moderator's requirement under this law to keep a numerical head count of how many voted at the particular time when the article was dealt with. Under those kind of considerations and without having to specify the law that he would have to do that the committee felt it was a good suggestion so that reconsideration would not be used by any particular group in a town or committee. I hope the senate will go along with this.

Amendment adopted. Ordered to third reading.

HB 1078, relative to the establishment of a permanent subcommittee on architectural barrier free design on the governor's committee on employment of the handicapped. Ought to pass as amended. Sen. Hancock for the committee.

#### Amendment to HB 1078

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

relative to the establishment of a permanent subcommittee on architectural barrier free design of the governor's committee on employment of the handicapped.

Amend RSA 275-B:11 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

275-B:11 Permanent Subcommittee for Barrier Free Design

Established. There is hereby established a permanent subcommittee of the governor's committee on employment of the handicapped, as established in RSA 275-B:1, to be known as the subcommittee on architectural barrier free design. Such subcommittee shall consist of 11 members, at least 6 of whom shall be physically handicapped persons, who have demonstrated an understanding of and commitment to architectural barrier free design. One member shall be a representative of the interests of the building trades, one member shall be a registered engineer or architect, and the remaining 3 members shall be ex officio members of the governor's committee.

Amend RSA 275-B:12 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

275-B:12 By-Laws. The permanent subcommittee on architectural barrier free design shall meet as soon as possible after appointment and elect one of its appointed members as chairman who shall serve for a term of 2 years and until a successor is elected. The subcommittee shall meet not less than 6 times annually, and at such other times as may be designated by the chairman. Six members of the subcommittee shall constitute a quorum at all meetings. The members and the chairman shall receive no compensation for their services, but may be reimbursed for necessary expenses out of any funds available to the governor's committee on employment of the handicapped for said purposes. Members of the subcommittee may be dismissed by the governor for cause.

Amend RSA 275-B:18 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

275-B:18 Severability. If any provision of this subdivision or the application of such provision to any person or circumstances is held invalid the remainder of this subdivision or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Repeal. RSA 155:8-a and RSA 155:8-b relative to building standards are hereby repealed.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. HANCOCK: The bill and the amendment create a permanent committee on architectural barrier free design as part of the governor's committee on employment of the handicapped. It would establish a code of barrier-free design for public buildings which are much in need of the code insuring accessibility of two of the physically handicapped, it would set up, promulgate rules to enforce that code and it would give the committee power to enforce those rules.

Amendment adopted. Ordered to third reading.

HB 884, relative to the payment of wages to an employee who reports to work at the request of his employer. Ought to pass as amended. Sen. Monier for the committee.

#### Amendment to HB 884

Amend RSA 275:43-a as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

275:43-a Required Pay. An employee shall not be paid less than 2 hours pay at his regular rate of pay on any day on which the employee has reported to work pursuant to his employer's request unless:

I. Such work is unavailable for reasons beyond the employer's control, or

II. The employee voluntarily consents to receipt of less than 2 hours pay, or

III. The employee is employed on a regular daily basis for less than 2 hours per day.

Sen. MONIER: Mr. President, this bill that went in was a good bill and we went along with it. And then we began to ask ourselves some questions about it and we came up with an amendment to help it. It has three parts. If you will look at it it starts on page 14 and extends over to page 15. The amendment is identical and then it says unless:. Let us take it up backwards if we can. Roman numeral 3 says the



employee is employed on a regular daily basis for less than 2 hours per day. Testimony was given at the committee that there are some kinds of jobs, part-time students, and so forth in which they are actually working and have agreed to work for less than employed on a regular basis for less than 2 hours. Obviously you are not trying with this bill to force a 2-hour pay for it if you already have a regular basis for an hour and a half say or something like this. An example cited is the student who might go in after school for an hour during a busy period in a store and that is his regular employment in that store. Therefore we did not wish to have him paid for two hours because he probably would lose the job. That's one part of it.

Sen. PROVOST: The law says that if somebody tells you to come to work they have to pay you for a half a day. I thought that was in the law?

Sen. MONIER: No. What there is and I don't want to confuse the issue, is a lot union labor contracts which have different kinds of things, like they have to be paid 3, or 4 hours per day. But the state law, there is no such thing as what you are saying. I will continue. I have tried to explain roman numeral 3, we had to put that in there because if we say there are some specail jobs or part-time jobs even though it is a regular basis where a person can be hired for less than 2 hours, he knows it, we don't want to force the employer to pay for 2 hours by passing the law as originally stated. Roman numeral 2, unless the employee voluntarily consents to receipt of less than 2 hours of pay. This is not a trick, there are a lot of young students, and this was brought to my attention by son I might add, who works for Champaigne's and he is on a call basis. He has that job because he is willing, he lives two blocks from it, he is willing to let them call him when they need him for 15 minutes, one-half an hour or whenever they need him. He checked and they checked and under this law they would have had to pay him for 2 hours no matter what it was. Quite frankly, my son wants any kind of work that he can get and never mind whether he is paid for two hours. I checked around and so did other members of the committee. It was a unanimously agreed upon thing. We found that there are other circumstances like this also, where a young person, a college student or an elderly person or a person downstairs like a babysitter is perfectly willing to work under these kinds of considerations. The way the law

was written you might either eliminate those kinds of possibilities but you would force the employer to phase you out. We put roman numeral 2 in to protect those. Roman numeral one, such work is unavailable for reasons beyond the employer's control. Senator Brown sponsored this part of the amendment. He explained it to us as follows and I agree with him. There are circumstances under which a company, a large company a firm may have to move people out of the building under a bomb threat. Under no control of their own. They may have called them, I can think of an example of this as a teacher in which a school is regularly called out because of bomb threats, the school is closed etc. Under those kinds of circumstances there needed to be protection for that kind of a circumstance. This would not and I am looking at you Senator Brown for confirmation, I repeat, this would not at the same time provide that the company would violate its union or contract agreements or call for something different. It does not change the basic law. The basic intent of the law which I should have said was this, there are complaints particularly in the Lakes Region and some of the recreational areas, that the employer will call someone up and tell them they need them. Then when they get there they say well I don't need you now and they wouldn't pay them. This bill was to protect that from a person calling in like that on call who came in and then the employer just arbitrarily said I only need you for an hour or fifteen minutes and the person wouldn't have driven that distance particularly in cottages where they are making up beds and this type of thing. I think that was used as the example if I remember correctly. I think we all thought that that under those kinds of circumstances pay them the two hours.

Sen. McLAUGHLIN: Senator I have no basic quarrel with the bill however an occasion happened in my area and how would the bill relate to this. If a person is told to come into work on a given day and so forth but due to a severe snowstorm or some other means there would be no work available for him at that time and they try to make contact with them at the phone number they have and so forth and they are not there and they do report to work. The practice has been because they made an attempt to contact them, an hour or two ahead and not coming to work they wouldn't pay them anything now this is saying they will pay them two hours. Is this correct?

Sen. MONIER: I think that is why Senator Brown put the roman numeral one in. Otherwise the way the bill was originally written whoever it was would have been stuck for two hours.

Sen. McLAUGHLIN: So you think that number one would cover that situation?

Sen. MONIER: Senator Brown said that that was the intent of the law at the time. I have to agree with it.

Sen. ROCK: Senator could you envision under the circumstances that a profession where the employee rate per hour is very high. Let us say someone who gets \$100 per hour, maybe a lawyer and you hire the lawyer and you know it is only going to take an hour to do the work but you have to pay that person who gets \$100 an hour for two hours worth of work even though it only took him one hour?

Sen. MONIER: As I understand it a professional person like that is not under the same category of employee-employer relationship. I think that was also brought up in committee.

Sen. HEALY: Perhaps the intent of the bill is good. I do not know. Therefore I am not going to question the bill per se but I do read in possible conflictions where people that are unionized and if they do work and are called in to work and they work less than four hours, they receive four hours pay and most of the time at time and a half regardless whether it is one, two or four hours. In the case of our union, or guild, we are called into work one or two hours we are paid for four hours at time and a half. I am wondering if something like this wouldn't cause a confliction. I do not know but I am not going to vote for this bill.

Amendment adopted. Ordered to third reading.

(Sen. Healy recorded in opposition.)

### Special Orders 2:20 p.m.

HB 123, relating to the establishment of complimentary facilities by banks.

Sen. POULSEN: This bill relating to complimentary facilities originally was convenience facilities which name was changed because it sounded like rest rooms. Actually you might say it is small branching. It is giving a bank a right

to have a separate office away from the main office but within just a few feet to take care of geographical problems. Often on the other side of a road, or alley or things like that. It does two things or three, it tightens the law and it eliminates a long 6-page form that was ordinarily used for a branch bank. This isn't a branch in that sense at all and it eliminates that whole procedure and it does allow this method of having a convenience entrance.

Sen. PRESTON: Senator Bossie is out of the chamber and it is his amendment and it is very important to him could you just wait a few minutes for him to return.

Sen. BOSSIE: This bill would basically take out the grandfather clause for those banks that were in existence as of 1963. Needless to say that this would have been a drastic effect on banking in New Hampshire and I think it would be a good idea and shake the money loose as it were. As it is now they are not prepared to do anything but unclear.

Majority report of "ought to pass."

Adopted. Ordered to third reading.

HB 643, relative to the qualifications for licensing of chiropractors.

Sen. McLAUGHLIN: Mr. President we have a simple bill before us today, nobody has heard much about it so I will try to explain what the bill is all about because nobody in the Senate has been contacted as to its contents. The main purpose of this bill is to upgrade the standards of New Hampshire to a national level. This bill when passed will allow chiropractic graduates from colleges who meet the standards set by the council of chiropractic education. The CCE is a federally recognized, accredited body and the only accredited body that meets federal guidelines. In the United States today there are thirteen chiropractic colleges. Twelve of these colleges have either met the standards or been accredited or in the process of doing so. One of these colleges was created some four years ago in South Carolina and profess to teach pure, straight, traditional chiropractic. This college has applied to CCE twice and have been refused and disqualified from not meeting the basic standards required for accreditation. Therefore this college is trying to gain entrance for its



graduates in the state of New Hampshire rather than upgrade the college to meet the standards as set by the other twelve colleges for the federal funding and so forth. They decided to change the laws in New Hampshire rather than meet these requirements. This bill in no way changes the chiropractic laws. It doesn't deny any licensed chiropractor to continue practicing in a state. It only allows them to be a better educated profession. It has been said time and time again the chiropractors are an educated, unprofessional group. This bill is striving for professionalizing through education. It is unfortunate that the only college that could not meet the accreditation, they saw fit to come to the state of New Hampshire and deliberately appear here today with us against this bill. By doing so they are trying to lower the standards which other colleges have and other states have and there are somewhere 30 to 40 states in the United States today which have the bill in effect as we are trying to put it today. The work of the Council of Chiropractic Education dates back to 1935. The United States recognizes that it has come about after 40 years of chiropractic education and raise the qualifications for doctors or chiropractic. On August 26, 1974 the Craig Commission on accounts of chiropractic education was adopted by the United States Commissioner of Education as a nationally recognized accredited agency and association. This bill is not denying anybody grandfather rights, it is not affecting anybody until after January 1, 1978. It is attempting to upgrade the standard and have them do more training programs in the college before taking the test in the state of New Hampshire. I recommend its passage.

Sen. SAGGIOTES: Senator McLaughlin are you saying that this is an education bill?

Sen. McLAUGHLIN: Basically speaking, yes.

Sen. SAGGIOTES: Was this bill heard before the committee on education?

Sen. McLAUGHLIN: No.

Sen. SAGGIOTES: Inquiry of the chair. On a split report such as that Mr. President, where there is one ought to pass and the other referral to interim study, which motion takes precedence?

The CHAIR: Ought to pass, I believe.

Ought to pass.

Sen. Saggiotes moved that HB 643 be referred to the committee on Public Institutions for interim study. Sen. Poulsen moved to lay HB 643 on the table.

Sen. SAGGIOTES: Very briefly Mr. President, I am sure we are all aware of what the bill does. I think we are all pretty certain as to which position we are going to take. I must say though that after all the arm twisting that has gone on after the session I will go to a straight from my left arm and a mixer from my right arm. The reason I make this motion is because I feel that a bill of this nature and this magnitude where it affects two different groups of chiropractors that all in disagreement with one another, should be referred to interim study. I don't think that this is the place for us to resolve their differences. I think by sending the bill to interim study they can have public hearings on this particular matter so that both sides can be listened to. They can have the board of chiropractic examiners testify and I am sure that they will be able to resolve their differences. I don't think that we should be doing it for them. I know that there has been a great deal of hard feelings created due to this bill and I wish that it hadn't come in to this Senate chamber.

Sen. ROCK: I think Senator McLaughlin gave you a very concise and excellent reading on the status of the bill. But I would just like to highlight if I could for a moment several things that I learned while hearing the testimony on the bill that Senator McLaughlin alluded to. The first of these is that anyone now practicing chiropractic in the state regardless of the type of chiropractic would be protected under the aspects of this bill and secondly, it goes even so far as to say that any student in the school at this time, regardless of the school they attended, would be protected to allow him to practice or her, they would be allowed to practice in the state. I think what made me feel even more inclined to support Senator McLaughlin's report and be opposed to the present motion is that regardless of the status of the school of chiropractic if it were merely to file a letter of intent with the CCE, means that in the letter of intent they were in their procedures and in their curriculum, moving towards the standards that are now national standards, that they also would be covered under this bill. A mere filing of a letter of intent to comply would be satisfactory to allow recognition under this bill. So with these three safeguards, safeguard

number one, any of our good New Hampshire chiropractors now practicing are grandfathered under this bill. Any student now in school, regardless of the school, would be grandfathered under this bill. And most important the only school now teaching chiropractic that does not have either recognition or filing of letter of intent could come under these standards with the mere filing of that letter. That to me clarified the issue and made me strongly in support of HB 643. I would hope that we would not send it to study because if we send this to study we are merely dodging the issue for another two year period and we will have to come back and face exactly the same issue two years from now that we are facing today. It is time to face the issue and realize that we are not imposing a hardship on anybody in New Hampshire now. We are not imposing a hardship on any patient of any chiropractor. I think that this bill makes sense that this is the state-of-the-art that we have to realize it now, before us in the country and this is merely the upgrading of the educational standards and the acceptance of general practices that we should be willing to approve.

Adopted.

## COMMITTEE REPORTS

HB 620, relative to contributions in the unemployment compensation law. Ought to pass. Senator Bergeron for the committee.

Sen. BERGERON: This bill was supposed to have an amendment with it and the amendment was overlooked. Commissioner Adams had an amendment that he wanted on that bill and we had agreed to it. In the processing it was missed.

Sen. Bergeron moved to recommit HB 620 to the committee on Insurance.

Adopted.

HB 331, providing for the disposal of septic tank material. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: This bill which was amended in the House and the amendment is on page 1186 of the house record, provides for the disposal of septic tank material. This is the material which is pumped out of septic tanks and has to have a place to go. The House amendment was very minor, it added in line 5 "other sewage storage facilities" added near the end of the bill "disposal facilities". Those appearing on behalf of it were primarily from the southwestern Souhegan Valley. Including Senator Rock on their behalf, Walter Healy from the Water Supply and Pollution Control Commission. We recommend its passage.

Adopted. Ordered to third reading.

HB 353, changing the town charter of Hanover to make sewer rentals the only method of payment for sewage disposal expense. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President, under the current Hanover charter sewer are paid for both by taxes within the sewer district and a sewer rental or user charge. There is a problem with that method of paying for sewers under the federal laws and under federal grants that the town is obtaining to extend its sewer line. This bill would allow for the amending of the charter to say the sewers will be paid only by users for fees. The bill will only be effective if adopted by a vote of the Hanover town meeting.

Adopted. Ordered to third reading.

HB 459, relative to septic tank information for property buyers. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: This bill also relates to septic tank and sewerage but on individual properties and it is somewhat of a consumer oriented bill in that the property owner and transferring his property by sale to somebody else, whether the original developer or a buyer would deliver to the new owner the plan and show on a map the spot where your septic system is. Should there be any further problem with it they would at least know where to find it.

Adopted. Ordered to third reading.



HB 398, imposing fines on zoning violators. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: This bill was also slightly amended by the House and that amendment is on page 1257 of the house record. Basically it sets a fine of \$10.00 for each day that a zoning violation continues and as I recall the House amendment that that fine would not start until after a conviction.

Sen. HEALY: Senator Keeney doesn't the community already have regulations for violations already in effect?

Sen. KEENEY: Not all do. If your community has a zoning ordinance perhaps it does have a violation section in it. But until it is actually written into state law it may not be effective.

Sen. HEALY: With conditions the way they are today, and requirements for land and land use and so forth, why is it that these communities who supposedly don't have something about zoning, what is the value of something like this, why do we have to have such laws as this, complicate the procedures and add to the tremendous amount of paper work that is already being filed and time is going to be changed again and furthermore I consider the fine of \$10.00 a day very severe.

Sen. KEENEY: The fine as I stated would not go into effect until a court conviction. This is giving a stronger enforcement to the community.

Sen. HEALY: In other words you are thinking that these violations sometimes very simply, a sign might be misplaced or a sign could be posted and perhaps the people posted it in the wrong area or against the will of the town and they could be told to reposition it, this particular legislation only brings about and initiates more legal tangibles, am I correct?

Sen. KEENEY: No this legislation only takes effect after a violation has been legally debated and the violator has been found guilty and been convicted.

Sen. HEALY: That is what I am saying. The intent is to bring about some more legal problems in a community or a town, something that is really not necessary.

Sen. KEENEY: The intent of the legislation is to penalize those who deliberately violate the ordinances that the local community has set up for itself.

Sen. HEALY: Don't these communities already have rules and regulations for cases of violations? This to me is a useless piece of legislation, that is what I am trying to get at. Nashua has the same kind of thing.

Sen. KEENEY: We do happen to come from cities or towns which have zoning ordinances but not all of them do have in New Hampshire and the ordinances are difficult to enforce without court cases. And then when a conviction is made then this penalty could be laid down on the violator.

Sen. HEALY: Let us assume that we are in some town where some farmer puts up a sign and says I have a cow for sale. He violates the zoning laws and he is notified about it. Later on he finds out that he has to pay \$10.00 for the violation for every day after a conviction. The cow perhaps didn't cost more than \$20 or \$30. Do you think this is good legislation?

Sen. KEENEY: I think this is good legislation.

Sen. HEALY: Thank you very much.

Sen. PRESTON: Senator Keeney, I met a fellow the other day who had some plans for an addition to his house. They put brick siding on the outside of it and there were six inches which extended into the 20 foot setback so he was charged with a violation by the building inspector. He has appealed to the board. Is he subject to the \$10 fine each day?

Sen. KEENEY: Not until a court conviction has been laid down against him.

Adopted.

Division vote: 16 Senators voted yea. 2 Senators voted nay.  
Ordered to third reading.

Sen. Blaisdell moved reconsideration on HB 227.

Sen. BLAISDELL: You remember this bill in the last session of the legislature where we were going to take the power of running the state police away from the Colonel of the State Police. Now they have come back with another bill and I apologize for this because I was not on the floor of the Senate at the time. If I was I would have opposed it. It said deputy commissioners shall have authority to control expenditures of all divisions that are necessary for budget control in the original bill. Just before that sentence, it says that the deputy commissioner to direct and supervise the administra-

tion of any division of the department except the division of state police. In the first section they give him power over his department and then in the next sentence they take the power of expenditures away from him. I have an amendment that I will pass out that will just add the words "for budget control except the division of state police".

Sen. ROCK: I haven't seen your amendment. When I hear the words budget and control and expenditures I automatically think of room 120 and I think is this something that we should be concerned with in Finance as to how budgets and control of budgets are handled in any way?

Sen. BLAISDELL: Well I would say that possibly if you would like to take it into Senate Finance I would be very glad to recommit it to Senate Finance and take a look at that.

Sen. MONIER: I have to rise in a little bit of protest to that. The bill came through EDA, it is not a finance bill Senator Rock. It does not talk about how much money they have. The bill that came out and I know that it would be nice to have it down in finance, I wouldn't object to that, but I think you ought to be clear on that. The bill as I recall it and I don't have it in front of me, but I think Senator Brown reported it, the bill was to establish clearly under the law that when the commissioner was not present, the deputy commissioner would have the capabilities of functioning for him in all capacities including budgeting, signing manifests, putting out the payroll, changing the classifications etc. The normal routine, administrative matters of budgeting, of management and of control. The reason that it was put in, and we had an extensive hearing on this I might add, the current law, the deputy commissioner does not have the authority. Therefore if something comes up and the commissioner is absent, they have to get ahold of him, they cannot sign the documents until he gets back here. This bill says that the said deputy shall have the authority to control the expenditures of all divisions as necessary for budget control and in the absence of the commissioner to assume executive direction of the department of safety. That statement that I just read is a simply statement that allows the manifests and all of the normal administrative procedures to go on. At the present time, that deputy in the statute, does not have authority and that is what that authority is there for. It also did do something else which I don't think you remembered changes, and that is, said deputy shall be previously qualified

by training, experience to perform the duties and he may be removed for cause by the commissioner. We debated that at quite some length on the floor at the time. At the present time I don't know what the amendment does, so I would like a brief recess to look it over.

Adopted.

HB 227, relative to procedures for appointment and removal of deputy commissioner of safety.

Sen. Blaisdell moved that HB 227 be placed on second reading and open to amendment at the present time.

Sen. BLAISDELL: I don't want to intimate that Senator Brown did anything wrong in his committee. I want that brought out in the Senate record. I also want you to know it Senator Monier. I don't want to snit at anybody. It just happens to be a belief of mine.

Adopted.

Sen. Blaisdell moved an amendment to HB 227.

#### Amendment to HB 227

Amend RSA 106-A:2-c as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

106-A:2-c Deputy Commissioner of Safety. Subject to the approval of the governor and council, the commissioner of safety shall appoint a deputy commissioner of safety, who shall serve as liaison officer between the commissioner and the directors of the various divisions and shall perform such other duties as may be assigned to him by the commissioner, which shall include, but not be limited to, the authority and power, with the approval of the commissioner, to direct and supervise the operation and administration of any division of the department except the division of state police. The said deputy commissioner shall have authority to control expenditures of all divisions as necessary for budget control except the division of state police and, in the absence of the commis-



sioner, shall assume executive direction of the department of safety. The said deputy commissioner shall be specially qualified by previous training and experience to perform all the duties assigned to him, and may be removed for cause by the commissioner. The annual salary of the deputy commissioner shall be that prescribed in RSA 94:1-4.

Amendment adopted. Ordered to third reading.

HCR 2, relative to the department of the army corps of engineers assuming jurisdiction over dredge and fill control in waterways and contiguous wetlands of the state. Ought to pass. Senator Foley for the committee.

Sen. FOLEY: This bill concerns control over the wetlands and waters of the state. It simply says that the legislature believes that the controls exercised in the state are at least as stringent as those imposed by the United States Corp of Engineers and it should be unnecessary for any agency of the federal government to duplicate or preempt the function that is within the capability of the state to perform. They are asking that the House and the Senate in Washington take the initiative and introduce appropriate legislation which will provide that any federal agency cannot come in when the State was doing its work. We move its passage.

Sen. POULSEN: Mr. President, I rise in strong support of this resolution. I think it is perfectly stupid for the Corps of Engineers to be coming in and telling us how to take care of our own dredge and fill. Questions that have been answered very well over the years. I am highly approving of this resolution.

Adopted.

HB 975, relative to mandatory installation of smoke detectors in structures for occupation built after 1978. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: This bill requires that all residential structures built after 1978, structures in which people are sleeping, have a sleeping capacity, will be equipped with automatic smoke alarm systems. It further requires that the fire marshall may make whatever rules he deems necessary for

the enforcement of this. It also provides that an aggrieved party may appeal to the Supreme Court within 45 days of a Fire Marshall's order. This bill was endorsed by the New Hampshire Fire Chief's Association and by the State Board of Fire Control.

Sen. TROWBRIDGE: When we get the mandatory things on any structure, that is for sleeping, I always get worried about that mandatory words any, I can see a boat house, I can see for instance a camper, I can see an additional section, someone puts on a sleeping porch, would all of those be covered in this bill?

Sen. HANCOCK: A residential building or structure so I would say that would preclude the camper but any edifice, residential building or structure which is used for sleeping would be included under this bill.

Sen. TROWBRIDGE: Now the fire alarm kind of thing, smoke detector, does it have to be hooked up to anything or does it just have to be one of those things that you buy from Gillette and ring?

Sen. HANCOCK: It is one that would ring and would have to be approved by the State Fire Marshall's office. Presumably he would use his discretion in those cases where a battery-operated device would be sufficient.

Sen. TROWBRIDGE: How much testimony did you get on this bill?

Sen. HANCOCK: I wasn't at the hearing Senator but it shows that Howard Raymond, the Concord Building inspector was there, Chief Clayton Higgins representing the New Hampshire Fire Chief's Association was there, another man who represented the New Hampshire Board of Fire Control and a self-employed person from Manchester.

Sen. TROWBRIDGE: Were they all in favor?

Sen. HANCOCK: They were all in favor.

Sen. FENNELLY: Could you tell me Senator Hancock, what does it cost to install one of these fire devices?

SUn. HANCOCK: I think there are a great many different kinds. I have three in my house which I installed myself so I suspect that they go all the way from there to rather complicated devices. For mine I paid somewhere in the vicinity of \$60 per detector.

Sen. FENNELLY: Could you tell me whether there was any testimony in committee pertaining to how many homes do not have them at the present time? What I visualize with

this bill in the fire department we are going to sort of create a new agency within that department. Besides the monetary aspect of what it is going to cost the consumer, we are dealing with life and death here, but I agree with Senator Trowbridge, mandatory, for the citizens of New Hampshire, especially in this area of your own home. I think we are getting into a gray area. Was there any testimony as to how many homes do not have this at the present time?

Sen. HANCOCK: Very few have it as I understand it.

Sen. FENNELLY: So basically on private residence homes, you have 200,000 private homes times 60 dollars, we are talking about a lot of money to make it mandatory.

Sen. HANCOCK: Of course but it is a safety device and that was the point of it all.

Sen. TROWBRIDGE: Senator Hancock, to answer Senator Fennelly, it is only on those structures built after 1978 so everything is grandfather as of now.

Sen. HEALY: Mr. President I rise in strong support of this measure. I feel that the new construction coming along after 1978, something to this effect might be very valuable and important for the safety of our people. I have read many stories in the last several years where these smoke detectors have aroused people very early in the morning who generally have been considered the purpose and reason why these people have been able to escape. I think it is a good piece of legislation. The equipment and the smoke detectors from what I understand are not too expensive and if they are being installed in new homes, in bedrooms and so forth I think that it would not be much of a problem.

Adopted. Ordered to third reading.

HB 1032, relative to the Saco watershed commission. Ought to pass. Senator Foley for the committee.

Sen. FOLEY: This bill simply repeals the Saco Watershed pact with Maine. New Hampshire adopted it in 1971 but Maine never bothered to adopt it. However, we still have the commission, and we hope the commission will work with towns in the watershed and perhaps by the 1979 session, we'll come back and get a compact with Maine. We move its passage.

Adopted. Ordered to third reading.

HB 1084, regulating motor vehicle and motorcycle sound emission levels. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: This bill establishes sound levels, maximum sound levels in decibels for motor vehicles and motor cycles. Depending on the age of the vehicle and the speed limit at which it is traveling. For example a motorcycle manufactured before January 1, 1977, in a speed zone of 35 mph or less, will be allowed to have 82 decibels and in a speed limit over 35, 86 decibels. These various limits are laid out in the bill. To give you an idea of what relative decibel levels are since these don't mean too much to the average person, at the bottom of the scale, a person with a good hearing, begins to hear at about 3 decibels. A bedroom at night is about 25 decibels, a living room is about 45, a conversation at 3 feet is about 72 decibels, a muffled snowmobile at about 50 feet is about 87. An unmuffled snowmobile at about 50 feet is about 105, a rock band is about 122 and the threshold of pain is about 140. These are limits which seem to be tolerable and will help to prevent noise pollution in our state. The bill provides for procedures for the enforcement to be carried out by the director of motor vehicles. A number of vehicles are exempted from this for example, vehicles engaged in engineering design and equipment tests.

Sen. McLAUGHLIN: Is there anything in the nearby states that have this same law in effect at the present time?

Sen. BRADLEY: I don't know the answer. I think California has a law but I am not sure. And New York also.

Sen. McLAUGHLIN: If no other states nearby have this then you are having people coming in this State from surrounding communities and you are making it this low, I believe California's figure is a little bit higher than this, why are we trying to make these figures so low and there are going to be a lot of arrests for people in the state and those that will be coming into the state.

Sen. BRADLEY: It is not my impression that these are so low that anyone with a well-muffled vehicle would have a problem complying with it.



Sen. McLaughlin moved to lay HB 1084 on the table.  
Adopted.

HB 313, prescribing the manner of posting land and providing a penalty for trespassing on posted land. Ought to pass with amendment. Senator Keeney for the committee.

#### Amendment to HB 313

Amend RSA 635:4 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

635:4 Prescribed Manner of Posting. A person may post his land to prohibit criminal trespass and physical activities by posting signs of durable material with any words describing the physical activity prohibited, such as "No Hunting or Trespassing", printed with block letters no less than 2 inches in height, and with the name and address of the owner or lessee of such land. Such signs shall be posted not more than 100 yards apart on all sides and shall also be posted at gates, bars and commonly used entrances. This section shall not prevent any owner from adding to the language required by this section.

Sen. KEENEY: This bill had been slightly amended by the House and the Senate amendment is going back to the original bill in that when you are posting signs around your property that they be 100 yards apart. The original bill was 100 yards, the House cut it down to 50 and the Senate amendment brings it back to 100 yards for your signs. It was our understanding that when the criminal code was adopted a lot of the laws that would allow one to post property were dropped out. The request in this bill is that property owners shall be able to post their property and it specifies the height of the letters and so forth and through the senate amendment again that these signs be 100 yards apart.

Sen. HEALY: Senator Keeney, are you considering cities in this or just rural areas?

Sen. KEENEY: It would probably be people in rural areas that would be most interested in this legislation but if you have a large tract in the city you could certainly post your property.

Amendment adopted. Ordered to third reading.

HB 243, relative to a hunting accident in which a person is wounded or killed. Ought to pass. Sen. Bradley for the committee.

Sen. BRADLEY: This is a very simple bill. Under present law all you have to do is report the accident. We had a situation where someone reported the accident but failed to give either their name or address. They had real trouble running him down. They eventually were able to do so. This bill simply makes it a requirement that in case of such an accident you have to not only report the accident, but give your name and address and so forth.

Sen. BOSSIE: For the record I would like to ask you, it is not intended by this bill, that one who has shot another individual give up any right to any specific right of the constitution against self-incrimination so the only thing that he would be required to do is do the minimal things, he doesn't have to describe the accident, or anything else, would he?

Sen. BRADLEY: Good question Senator. The reporting of such an accident should not be construed in any way to be damaging to him and should not be used in any way on the issue of whether or not he has committed a crime or is guilty of negligence. Giving the report itself is not evidence that he was in fact negligent or guilty of any crime.

Adopted. Ordered to third reading.

HB 359, permitting any person 16 years of age or over to be prosecuted as an adult for a violation of any fishing law. Inexpedient to legislate. Sen. Keeney for the committee.

Sen. KEENEY: This bill would have added to the following list of those things for which a person over 16 could be treated as an adult. The list now reads: for violation of a motor vehicle law, an aeronautics law, a law pertaining to navigation of boats or game law that pertains to hunting and it would add laws pertaining to fishing. It was the feeling of the committee that violation of a fishing law was not as serious a crime as some of these others that could in effect lead to death, taking too many fish, or fishing out of season didn't warrant treating those between 16 and 18 as adults.

Sen. HEALY: I hope Senator that you think I am picking on your today. This bill causes concern to me. While we don't consider adults, young people smoking and things like that. There was a bill coming in here that is going to be raising the drinking age to 19 or so forth but we don't consider anybody up till 19 years of age an adult but here we have some boy that might go out fishing at 16 years of age and consider him an adult and bring him into the category where he can be fined. I can understand motor vehicle violations and navigation and so forth but just plain a kid dropping a fishhook into a pond or a brook, he is considered in violation at 16, do you think that is right?

Sen. KEENEY: No that is why we reported it inexpedient.

Sen. HEALY: Oh, I am glad to hear that.

Sen. JACOBSON: Was this bill passed by the same House that passed 469?

Sen. KEENEY: If it was this year, I presume it was passed by the same House.

Sen. JACOBSON: So that on the one hand they considered a person immature with regards to drinking and on the other hand they passed legislation that counted them as 16 year old adults with regards to the fishing law. Is there some incongruity in that?

Sen. KEENEY: I think you would have to ask the members of the house.

Adopted.

HB 748, to implement the uniform marriage recognition law. Inexpedient to legislate. Sen. Keeney for the committee.

Sen. KEENEY: We felt this bill should be reported inexpedient because usually the reason for going out of this state to marry in another or coming in to this state from another is, how shall I put it, better to be married than not. One of the questions that I raised during the hearing was that if I had left this state at age 14 to be married in another and returned 20 years later would the marriage be recognized. The answer was yes but there was no distinguishing point at which time such a marriage would be recognized. I think the committee felt and I certainly feel that if, where a marriage is performed it is valid, that we should recognize it here.

Sen. JACOBSON: What did this bill do, did it make invalid marriages conducted outside the state?

Sen. KEENEY: It would prohibit people coming into this state to marry who couldn't be married under the laws of whatever state they resided in. And it would not recognize marriages of our residents who couldn't be married under the laws here but went to another state to be married.

Sen. JACOBSON: Making this inexpedient allows for the validity of any marriage conducted elsewhere, validly?

Sen. KEENEY: If where it was conducted it was valid.

Sen. JACOBSON: Suppose we had the situation where the girl was eighteen and the boy's age was 21, I think it is eighteen-eighteen now, so they went off to another state to get married where they could get married, is it still a voidable marriage when they come back with respect to the parents lodging a complaint?

Sen. KEENEY: As I understand your question, under this bill it would be a voided marriage, it would not be recognized.

Sen. JACOBSON: But the voidable part still stands, is that correct?

Sen. KEENEY: If the marriage could be voided for another reason I would say yes. As you know I am not a lawyer either and I was looking at this from a sociological point of view shall we say and I would refer more legal questions to the Chairman of the Judiciary.

Sen. JACOBSON: Was your opening statement in concordance with St. Paul that it is better to marry than to burn?

Sen. KEENEY: I don't recall him saying that but I read about it.

Sen. TROWBRIDGE: Senator Jacobson, if you are really talking sociologically these days not many bother to get married, but doesn't the full faith and credit clause cover this whole situation? Even if we pass that bill?

Sen. JACOBSON: That is what I presume would be the situation because we can get into a terrible tangle so I am in support of the committee's report. I wasn't exactly sure at first what the bill did.

Adopted.

Sen. Downing moved reconsideration on HB 746.



Sen. DOWNING: Mr. President this is the bill which dealt with the discrimination between issuing of licenses and permits. We had a very lengthy debate and there were Senators who weren't present for it.

Adopted.

HB 746, to eliminate discrimination against non-citizens in the granting of liquor licenses, selling or delivering of liquor or any other occupation profession or business activity.

HB 746, is on second reading and open to amendment.

Sen. DOWNING: Mr. President I would just like to briefly state for the Senate that HB 746 merely corrects a shortsightedness in the bill that was handled in the 1976 session. At that time we recognized the discrimination against legal aliens being able to attain licenses and we corrected that and we made it legal for them to have licenses to the extent that you have a license to sell liquor in a restaurant for example. You have a liquor license and what we didn't consider was the titles that these things have and some have titles of permits or certificates. In the case of selling beer in a grocery store, which is certainly considerably less sensitive than selling liquor in a restaurant, you need a permit. This bill merely extends the licenses to permits and certificates. It doesn't change the licensing aspect of it at all. It does extend it to encompass permits and certificates which popular thinking is it should have been included, many thought it was included when we did this thing in 1976.

Sen. SAGGIOTES: Senator Downing, are you saying that at the present time the way the law is written that if I were a permanent alien that I could own a liquor license and serve all the booze in the world and if I wanted to open up a grocery store next door and I applied for a beer permit that law presently prohibits me from getting a beer permit while I am holding a liquor license?

Sen. DOWNING: Correct and it is obviously an oversight.

Sen. SAGGIOTES: Are you saying that that is the way the law is presently?

Sen. DOWNING: Yes.

Sen. SAGGIOTES: And the bill that we are talking about,

HB 746, would extend me the privilege of having a beer permit along with the liquor license that I presently hold?

Sen. DOWNING: Yes assuming that you met the other requirements of the liquor commission and the law but you wouldn't be precluded merely because you were a legal alien instead of a natural citizen or a citizen of the country.

Sen. SAGGIOTES: This is all the bill does?

Sen. DOWNING: That's all.

Sen. FENNELLY: I rise in opposition to the committee's report. I think in 1976 we made a mistake by granting those liquor licenses. Some where along the line a stop sign must go up. Just a few moments ago, Senator Poulsen's amendment to HB 643 which it says pertaining to chiropractors, it's equivalent shall be at least 18 years old, of good moral character and a citizen of the United States or Canadian province which has the same privilege. Well Canada I presume, does have an agreement with the United States pertaining to chiropractors. If I wanted a license to operate whether I was a lawyer or a realtor and I went to Switzerland or Germany or anywhere else and I applied, I would be waiting quite a long time and if necessary, probably will prepare an amendment to take away a certain area of liquor licenses with a grandfather clause. I hope the senate supports the motion of indefinite postponement as I made before on this bill.

Sen. DOWNING: Senator, of the foreign countries which you mentioned, how difficult would it be for you to get a permit to sell beer?

Sen. FENNELLY: I have no idea.

Sen. DOWNING: Then why don't you use that comparison instead, why compare it to practicing law and that type of thing? If you feel that this is so far out and so unreasonable why not find out what they are doing in those countries—I think you will find that an American citizen can do business in most of those countries and in most of the areas that we permit and in the same manner.

Sen. BOSSIE: Senator Fennelly, I've got a nice question for you. Would you believe that this past weekend I was watching television and I saw an advertisement on one of the channels out of Boston, they were looking for trial drivers for the MBTA in Boston and two of the requisites that they be a citizen of Massachusetts and that they be a United

States citizen to drive the trolleys upon the streets of Boston, now can you believe that?

Sen. FENNELLY: I believe it. And Senator Downing's recommendation as to how they act in Switzerland, maybe I should lay this bill on the table, go to Switzerland find out what they are doing there.

Sen. BLAISDELL: I'll lay it on the table if you'll go to Switzerland.

Sen. ROCK: Senator Fennelly, I have been disturbed on this issue since I looked up the law that I must admit we apparently voted in 1976 but to the best of my recollection, in its passage did not have the kind of debate and exposure that we are having on the issue here which is perhaps showing us that we may have acted in haste in a previous session. My question with that preface, is that since you have a special committee under Senator Downing that is going to look at the liquor laws and since we may have, and I say may because I am not sure that we made a mistake previously, don't you think the place for this bill would be to that study committee with the specific instructions in the Senate that you also look at the one that we passed in 1976 to see whether that has ramifications that we didn't understand.

Sen. BRADLEY: I just want to say two things. One, I think that this country stands for freedom, free enterprise and allowing each person who is here to pursue a meaningful occupation of his choosing. If we allow aliens to come here legally and they are here legally I think we should allow them to ply their trade, whatever it may be and if it requires the obtaining of a license or permit it seems to me only right and just that that is what we should do. That is the kind of country that we live in. Beyond that, this issue has been in the courts several times and it is clear under the dictate of the U.S. Supreme Court that you cannot constitutionally do what we have done in the past and that is to preclude someone from getting something like a beer permit. You can't do it. If you don't pass this law what you are doing is forcing some poor soul to take this matter to the courts. It has already been litigated. The attorney general has been before committees of this legislature, been before the judiciary committee several times in the past to tell us that. So not only is this a housekeeping bill as Senator Downing has said, but this is simply a bill to bring our law in line with the constitution.

Sen. FENNELLY: Senator Bradley, I am not a constitutional lawyer but I would like to ask you a question. Under the laws of the state and under the laws of the United States, you as an attorney, must you be an American citizen to practice law in this state?

Sen. BRADLEY: The rules of the supreme court say so but I don't know whether the New Hampshire supreme court says so and I don't know whether that is constitutional either. That is no reason not to pass the bill.

Sen. FENNELLY: Do you know of any country in the world that you have to be a citizen to become a lawyer? Where you can be an alien?

Sen. BRADLEY: I don't know and I don't care.

Sen. DOWNING: Wouldn't it make much more sense if people compared their licenses to beer licenses rather than lawyers licenses to beer licenses?

Sen. BRADLEY: Yes it would.

Sen. SMITH: Senator Bradley, do you remember several sessions ago, we had a bill in which would have allowed the sale of milk to  $\frac{3}{4}$  containers. Do you remember the opposition to that bill? Do you remember that the opposition came from the people who didn't have machines that could bottle the milk in  $\frac{3}{4}$  containers?

Sen. BRADLEY: Yes.

Sen. SMITH: This is not the corollary with the lawyers, but don't you think that the principle is the same?

Sen. BRADLEY: I am not making the connection.

Sen. JACOBSON: I want to speak in support of this bill. I won't repeat what I said except that last evening I listened to a program in which the ads had a reincarnation of Thomas Edison. It was a General Electric ad and one of the little accounts was by a man named Steinmetz. Steinmetz made possible our modern society because Edison could only understand direct current whereas Steinmetz discovered alternate current which made it possible to transmit it over wires in ad finitum and the last sentence was suppose we had placed a lot of restrictions on Steinmetz and we didn't let him into the country. We are talking about those who are lawfully admitted. And I think once lawfully admitted they should enjoy the basic liberties with regards to furthering their economy and their social life. My father was an immigrant and my mother was an immigrant and I am sure that many of you have relatives who were immigrants and I think



we ought to grant them the liberty and as I said before I have lived abroad I have had all kinds of liberties granted even though I was an alien in the country including as I said my 30 shilling retirement fund.

Sen. POULSEN: Senator I have as many immigrants in my family as you do but that is not the point of my question. It was my understanding that the Sweden that you testified to previously, electric power is transmitted on high lines under DC voltage not AC. Had we ousted Steinmetz we could have had the advantages of Sweden.

Sen. JACOBSON: Senator I am only going by the ad, maybe they gave a false ad, it was an interesting illustration.

Sen. Rock moved that HB 746 be referred to the special sub-committee on Ways and Means studying Liquor Laws for interim study.

Sen. Saggiotes requested a roll call. Seconded by Sen. Blaisdell.

The following Senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Monier, Rock, McLaughlin, Keeney, Sanborn, Provost, Bossie, Fennelly, Preston.

The following Senators voted nay: Smith, Bradley, Jacobson, Saggiotes, Blaisdell, Trowbridge, Hancock, Healy, Brown, Downing, Foley.

13 yeas      11 nay

Adopted.

HB 801, relative to providing certain additional documents when applying for a marriage license. Ought to pass.

Sen. Foley for the committee.

Sen. FOLEY: This bill concerns the handing out of marriage licenses in the state of New Hampshire. At the present time the couple can go into the town clerk. All they have to have before they get through is a blood test. This bill would allow three additional documents to be presented to the town clerk before a license is issued. First of all they have to have proof of age, second proof of divorce if applicable, and c)

proof of death if applicable, to a former mate. These are all standard precautions. At the present time, local clerks have to exercise discretion, sometimes people come in to get married and they don't look old enough and there is no way that the state of New Hampshire requires proof. It will cut down on many unpleasant aftereffects that mar certain marriages at the present time and will remove potential or illegal irregularities. The division of vital statistics and the department of health and welfare worked with the town clerks for this bill and we urge its passage.

Sen. ROCK: Senator Foley does this bill have anything to do with the story of the two young people who went in to be married on a weekend and they went before the justice of the peace late Friday afternoon to be married and he told them that their wedding papers were not in correct order and to please go get them fixed and come back and see him on Monday. And they asked him in lieu of that would he say just a few words to take them over the weekend?

Sen. FOLEY: I haven't heard that one.

Adopted. Ordered to third reading.

HB 752, relative to the time limit for reporting divorces to the bureau of vital statistics. Ought to pass. Sen. Foley for the committee.

Sen. FOLEY: Now that we have the couple married as is so often the case, we'll deal with the divorce. This bill concerns the practice that counties have to report on a monthly basis the number of divorces in the county. Some of them have been doing it quarterly, but in order that the workload be put over a smoother amount of time and an even amount of time it is recommended that all of the counties report monthly to the division of vital statistics the number of divorces in the county during that month. This will help the division of vital statistics who have monthly reports on the weddings, the deaths and the births. Now they'll have monthly reports on the divorces and everything will be fine.

Sen. Fennelly moved to lay HB 752 on the table. Division vote: 6 Senators voted yea; 11 Senators voted nay.

Motion failed.

Adopted. Ordered to third reading.

HB 467, relative to charging manner of death. Ought to pass.

Sen. Bossie for the committee.

Sen. BOSSIE: This is a bill that would basically change the criminal code to provide that in the indictment charging death, that it would delete certain things and would specify exactly what it was. This was requested by the office of the attorney general and from what we could determine at the hearing, nobody opposed it. It appears to be housekeeping.

Adopted. Ordered to third reading.

HB 1035, modifying the criminal classification of operating a motor vehicle under the influence of alcohol or controlled drugs. Inexpedient to legislate. Sen. Bossie for the committee.

Sen. BOSSIE: This is a bill that would basically decriminalize the offense of driving under the influence. As you know there was a senate bill that was fairly similar in nature which I believe was placed on the table and was never taken off the table. At the hearing the sponsor appeared for it as well as Justice Douglas. You see a letter on your desk today from him. Basically his statements are that the courts are burgeoning with the workload and much of the workload about 1%, is DWI cases. The committee of the Judiciary felt that after hearing the case very carefully, that the problem that is presented by the justice is such that rather than changing the penalties to conform to the court's time we should perhaps reform the law with regards to the courts and perhaps hire more justices to handle the cases. There is nothing we could see that would determine for us that we should change the penalty for driving while under the influence to make it less severe. All one is doing by passing this is to deny one the right to trial by jury and by doing that supposedly to save the court's time. Well the court is there for the purpose of hearing cases and we have no doubt about that. I think everyone is entitled to a right to a jury in a case of DWI and whether certain defendants abuse that the court perhaps could make rules to change it. We still see no reason why we should decriminalize an offense of DWI.

Sen. MONIER: Senator you stated the case very well. You are correct that there was a senate bill and you made the same arguments then. I am aware that Justice Douglas sent us a letter, but I wonder you keep talking about decriminalizing. Do you have any statistics as to how many that go up for jury trial, never arrive at jury trial that instead, are plea bargained?

Sen. BOSSIE: There may be some and I am sure there are. He may have given us the statistics but I am not aware of them right now. There is plea bargaining but if what we want to do is preclude plea bargaining let us change that law, let us not deprive people of rights just to allow a few deadbeats who want to avoid the law to do it?

Sen. MONIER: Would you admit Senator Bossie that what has happened, is that they are appealing under a misdemeanor which they have a right to do, they then go to Superior Court and less than 20% of those ever get to a jury trial, would you admit that changing this to a violation wouldn't change the system at all? Is it not true that they go to Superior Court, ask for the trial, there is as much as a 2 to 3 year backlog and as a result they plea bargain for speeding or some other surface and it is not a matter that you are denying them jury trial.

Sen. BOSSIE: Senator you know as well as I do, that the New Hampshire Senate and the House, two years ago, passed a law, four years ago, passed a law that would provide that anyone who does appeal from the district court would lose their licenses pending the appeal. So most cases that go to the superior court do it on principle because they have already lost their license for a specific period of time determined by the court. After they have served their penalty the only thing left is to pay their fine, why do you insist on depriving them of their rights and their liberty? I just can't understand it.

Sen. MONIER: Since you are asking me a question instead of answering one, I will reply to it with another question. The truth is I don't deny them of anything if they do not get their jury trial, am I not correct? If they plea bargain it out to a lesser plea, then I haven't denied them of a thing. What they have done is use the law under the present circumstances in order to not have on the record a DWI.

Sen. BOSSIE: What may happen under plea bargaining .



Sen. MONIER: You didn't answer the question.

Sen. BOSSIE: I am answering the question, I am telling you Senator that if you don't like plea bargaining change that law. What you are trying to do is throw out the baby with the dirty wash. This is a good law the way we have it; there is no problem with it. If you were an attorney and you saw how it operated—certainly there are abuses, there are abuses any place, there are abuses in here but that doesn't make any difference—we don't condemn the Senate because of that. Somebody, and the Governor has said this would be a good law, we will deprive people of their right to a jury trial and therefore we will have speedy justice and this will be hunky-dory. Well, that is not hunky-dory with me. We cannot deprive people of rights just because the people aren't able to handle it as fast as they should.

Sen. MONIER: Did the Governor tell you that because he didn't tell me that.

Sen. BOSSIE: Oh I have seen all the press releases.

Sen. MONIER: The case in point is this, and I think you will remember before you get into this thing with me personally. I put the first DWI bill in to the House 7 years ago in which they lost their licenses so I am not for DWI at all. The point I am arguing is that violations does not allow them to appeal, is that correct?

Sen. BOSSIE: No. A violation—what this would be would be to permit them to appeal not to a jury, just to a judge. Because for some reason everybody thinks that a jury is more lenient. Well you know why, because a judge has heard a million of these cases and a jury, hopefully will not have. They will be fresh and they will not have had any predisposition on any case.

Sen. MONIER: But isn't it correct that once they make that appeal if that appeal is not heard by a jury trial and they plea bargain or any other means, they come out with a different kind of a sentence with a different kind of a judge, then in the future they do not have the DWI on the record.

Sen. BOSSIE: Not under that circumstance.

Sen. MONIER: Would you still believe it is around 70%.

Sen. BOSSIE: Well you say it is and I practice law and I don't believe it is.

Sen. MONIER: Did Justice Douglas or the other people that have been interested in this case and there are others besides the Governor and Justice Douglas and myself, did

you ever look at one of these in which these are appealed cases for one day in which there are 37 to 52 cases on it?

Sen. BOSSIE: Sure, I am a lawyer, and I get those in the mail. Do you know Senator that this constitutes cases from every town and city and the county of Hillsborough for a period of 6 months? You don't know that do you, you just believe what these people tell you, just blatantly.

Sen. MONIER: Yes I do believe it. As a matter of fact I think you will find that the alcoholic safety division says that 5,000 first offense arrests of 5,000 about 3200 of them appeal. Approximately 65% of those were either plea bargained to a lesser term or were not followed through on. Now would you tell me what it is that we are denying those kinds of people when they use that as an excuse to change the record of whether it is a DWI to a lesser offense.

Sen. BOSSIE: Senator like in a charge of homicide—if you were charged with homicide and you plea bargain it down to manslaughter everybody wouldn't think that there was somehow that you were averting justice. This is just one charge, there are millions of charges in the state of New Hampshire in the criminal codes. Do you understand? What you are basically doing—this is today, tomorrow you're going to say the same thing for homicides. Let's make that a violation. Let's not give them a jury trial. Suspend their right to operate for the rest of these lives. Do these things. But that doesn't answer the problem. The problem is and justice knows it as well as I do—that what we need are more courts and judges to handle the problem. People are expanding, the numbers of people in New Hampshire. The amount of people in the state of New Hampshire in the last ten years has tripled and you can't tell me that the same number of judges can handle that load that they handled ten years ago.

Sen. MONIER: Would you agree that perhaps that some of these encouragements of going there for plea bargaining purposes might cut down some of it and then maybe you wouldn't make those judgments?

Sen. BOSSIE: No. You can think what you want to. Plea bargaining—that is the way that it is if you don't like it change it. I think you are not helping the system of justice by promoting a bill of this nature to basically deprive people of more of their rights. If you are going to deprive them of the rights why don't you give them something in turn. You are

not prepared to do it and I am not prepared to vote for this bill.

Sen. TROWBRIDGE: Senator Bossie, one thing I have never heard in all of the discussion is how many of the appeals that people take to the superior court on a jury trial, are successful? How many DWI appeals are successful? Does anybody know?

Sen. BOSSIE: I believe it is 1 out of 8 or 1 out of 10. Your further question should be how about all jury trials for criminal offenses. And it is comparable and they are all just about the same percentages.

Sen. TROWBRIDGE: If that is true, if only one out of 10 are successful then the threat of a person saying I am going to appeal this is not much of a threat to the law enforcement officers. They don't plea bargain just because of the threat of appeal, do they?

Sen. BOSSIE: You're right Senator, they don't care about that.

Sen. Monier moved to substitute the words "ought to pass" for the words "inexpedient to legislate."

Sen. MONIER: I think that we are right back to the same argument that we had before, I don't remember what the vote was, but I think we ought to have it again. To be quite frank with you the superior court received somewhere, and I know this is in a letter to you so I'm not any big genius on this, the superior court received somewhere on the order of 500 to 700 DWI appeal cases a year. It represents approximately 10 to 14% of the 5,000 pending criminal cases in superior court. I think that you are well aware that felonies take first precedence so therefore as a result and not because you are denying anybody, but as a result of the laws that stand, what happens is that you wind up with 2 to 3 year lengths of time that they are not heard. As a result of it and I don't care if we need to add more justices or not, the people will follow this appeal because they do not often wind up with a DWI. If they plea bargain it off their record. And I think that no one is making any acknowledgement of the fact that in under our current law of DWI, first offense is one thing, second offense is worse and third offense is worse than that. I do not take any resentment because we get into the heat of action and I know that Senator Bossie and I dis-

agree on this matter but I will tell you I was smacked pretty badly because of a DWI about 22 years ago. I lost a member of my family as a result of it and I just don't have any sympathy for them whatsoever, jury or otherwise. That may be a personal motivation and my reasons for fighting. Six years ago in the House I introduced a bill that asked for, I think, a one year automatic revocation for anyone convicted of a DWI. About half of our deaths on the highway are caused by DWI and in many cases they are single car accidents, it is one of the most serious problems we have and before anybody calls me a prude I drink with the rest of them but I just don't drive when I drink and therefore I am not arguing that point either. I think that this particular bill as the senate bill that I introduced at the request I might add of the judicial council who supports this bill, not just the governor, and as does the attorney general, as does the committee of the governor's on criminal justice that was selected, as does the standards on the alcoholic and alcohol safety program. This is not something that has a partisan effect nor any other effect with it whatsoever. I would hope that you would at this point think in terms of what this means to those who no longer carry the DWI as a result.

Sen. TROWBRIDGE: I would just like to say that I sympathize with Senator Monier's feelings about having been injured in an accident, I think that is important to recognize. But I think it is important to recognize that there are times when in a situation you get this bill through and there is no appeal that those local police who are now kept in check on bagging people and they do and we have had an incident around my district where it has been rife and they have been bagging people who are no more reason to be DWI, they give them the breathalyzer test, they don't know how to do it and they come up and say .20 and the appeal goes through and that's why I asked Senator Bossie about the appeal. The appeals from that particular district court have been more like 5 out of 10 have been successful. I think one of the things you have to consider with this thing is when you do this you will then open the road to any police officer, local or state, who decides that he is going to come along and bag somebody. That there is no way that you or your family or anybody else to get out of that. And that I think is to be remembered, that we don't want to give up the hole that we have through the appeal process for corrective situations. I am going to vote



for the inexpedient to legislative and against the ought to pass.

Sen. MONIER: Without a running debate Senator do you realize that this bill does have an appeal system in it, it is merely to a judge?

Sen. TROWBRIDGE: No. The problem is that at this point with the violation you are not going to have the same appeal that you had before and whether it has an appeal process or not it does not have a jury it is a simple administrative appeal.

Sen. Rock moved that HB 1035 be indefinitely postponed.

Sen. Monier requested a roll call. Seconded by Senator Blaisdell.

The following Senators voted yea: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Jacobson, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Healy, Provost, Brown, Bossie, Fennelly, Downing, Preston, Foley.

The following Senators voted nay: Saggiotes, Monier.

21 yeas      2 nays

Adopted.

HB 892, relative to temporary transfer of prisoners. Ought to pass. Sen. Bossie for the committee.

Sen. BOSSIE: Mr. President, basically this bill permits the warden at the state prison to remove prisoners to say the hospital or to a doctor's office for emergency treatment. Right now the law is such that he cannot do it unless he has the permission of the governor. So basically they just need this in case of emergencies not to create a problem by bothering the governor. What has happened in the past, when it has been an emergency the warden has taken it upon himself but I really think it is not a good procedure to do that. It should be a lawful thing to remove these people without approval of the court or the governor. The committee urges its passage unanimously.

Adopted. Ordered to third reading.

HB 999, relative to joint authority of public officers. Inexpedient to legislate. Sen. Bossie for the committee.

Sen. BOSSIE: This is a bill sponsored by Representative Bednar and it is an attempt by him to in the definitions clauses of the statutes where joint authority is given to a group such as a group of selectmen, that all members shall be given notice and the opportunity to be present in exercising their authority. The committee couldn't understand the need for it and we asked the sponsor if he knew of any instances where there is an abuse and he really didn't and we can't for the life of us see any reason why we should have a law of this nature so we would ask the senate to concur with us that such a bill is inexpedient, there is no need for it.

Adopted.

HB 529, relative to reimbursing victims of violent crimes and making an appropriation therefor. Ought to pass with amendment. Sen. Bradley for the committee.

Sen. BRADLEY: This is a very interesting bill. It has been adopted recently in several other states which would provide a system of reimbursing victims of violent crimes. It sets up a board to hear claims made under the law which consists of a justice of the supreme court or superior court or attorney general or assistant attorney general, a member of the welfare agency in the state, a member of the New Hampshire Bar Association and a member of the general public. A special fund is set up under the bill and it is funded by adding \$5.00 to each fine when a person is convicted of a misdemeanor or a felony. The amendment is a minor part of the bill and deals with section 7 of the bill on attorney's fees. The amendment is printed in today's calendar on page 16. The original bill on attorney's fees set out a scheme of somewhat complicated scheme of what they should be and how they should be set. The amendment simply sets that attorney's fees get approved by the council when they hear the case much as is the case in a court proceeding. The bill received the support of the Bar Association, they were there in support of it and Justice Douglas was there also to appear in favor as well as the sponsor and another representative. There was no opposition.

Sen. ROCK: Was there a provision in the bill on a limitation that the council can pay out to a victim or a dependent of the victim under the statute as it is drafted?

Sen. BRADLEY: Yes, and there is rather an extensive amendment so that the bill you have in front of you may not be the thing to look at. On page 8 there is a limit of \$5,000 and there are other limits on it.

Sen. ROCK: I wonder senator, because of the length of the bill and the amendment, is it in today's calendar?

Sen. BRADLEY: No I'm sorry it is a House amendment. The House amendment really was the whole bill.

Sen. ROCK: I wonder if you because of the amendment and because of the fact that it is a house amendment and it does seem to be a rather complicated bill, there is an appropriation on it which means it would have to go to Senate Finance I would assume.

Sen. BRADLEY: The original bill had an amendment of \$50,000 on it. The sponsor talked about removing the appropriation but it is one of those things, the state treasurer is authorized to upon request of the governor and upon request of the council to pay all claims and council expenses approved by council and the funds of the special fund known as the Criminalization Victim Fund appropriated for those purposes. So I am assuming that it will go to Finance. I heard this bill along with 31 others on a Saturday and I haven't studied it that closely myself and it seemed like a good bill.

Sen. HEALY: I am looking at the analysis Senator and it lists here a five member committee and of the members I find that three are associated with the legal branch, how are we going to win?

Sen. BRADLEY: I think there is an implication, a generalization in your statement that is unfair.

Sen. HEALY: Well you can call it unfair but I can say that a five member committee is unfair, at least have 6 and have another person from the general public an opportunity to be on it.

Sen. BRADLEY: I am not strong on that point, I wouldn't care if the ratio was the other way around 2 to 3 or 3 to 3.

Sen. BROWN: Senator in the analysis it says that a special fund is to be established. Is that still in the bill?

Sen. BRADLEY: Yes it is. They have taken out the dollar amount. The amendment has 5% of the fine.

Sen. BROWN: Presently in my committee, there is a bill in relation to setting up a fund, in relation to the police standards and training council to fund the academy and that states 10% of the fines or no less than \$2.00. If we keep passing these bills what is this going to do to the fine system in the courts throughout the state?

Sen. BRADLEY: Good question. Until we get to 100% I guess we can make good use of it.

Sen. Blaisdell moved the previous question.  
Adopted.

#### Amendment to HB 529

Amend RSA 622-B:7 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

622-B:7 Attorney's Fees. The council shall as a part of any order entered under this chapter, determine and allow reasonable attorneys' fees.

Amendment adopted. Referred to Finance under Rule No. 24.

(Sen. Monier, Brown, Healy recorded in opposition.)

#### HOUSE MESSAGES HOUSE REQUESTS CONCURRENCE IN AMENDMENTS

**SB 111**, to conform the state statutes and regulations to the requirements of the federal insecticide, fungicide and rodenticide act.

See House Record page 2465.

Sen. Keeney moved to concur with the amendment.

Adopted.

**SB 175**, providing a penalty for purposely or knowingly covering a fire hydrant with snow or other debris.

See House Record page 2464.

Sen. Bradley moved to concur with the amendment.

Adopted.

**SB 310**, which changes certain laws which refer to game



animals, game birds, fur-bearers and fish to the general category of wildlife.

See House Record page 2472.

Sen. Preston moved to concur with the amendment.

Adopted.

## HOUSE NONCURS IN SENATE AMENDMENT AND REQUESTS A COMMITTEE OF CONFERENCE

HB 659, requiring a minimum of 2 years residency before applying for free hunting or fishing license, or both.

The Speaker appointed Reps. Stimmell, Polak, Wolfsen and Sabbow.

Sen. Lamontagne moved to accede to the request for a committee of conference.

Adopted.

The Chair appointed Sen.s Lamontagne, Healy and Hancock.

## ENROLLED BILLS AMENDMENTS

HB 109, relative to official state songs.

Sen. Lamontagne for the committee.

### Enrolled Amendment to HB 109

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT relative to state songs.

Amend the bill by striking out sections 2 and 3 and inserting in place thereof the following:

2 Repeal. RSA 3:7-a, 3:7-b and 3:7-c relative to the second, third and fourth state songs are hereby repealed.

3 Repeal. Laws of 1977, 7:3 relative to honorary state songs is hereby repealed.

Amendment adopted.

HB 6, granting reciprocity to certain licensed cosmetologists from other jurisdictions, if that jurisdiction participates in national testing.

Sen. Lamontagne for the committee.

### Enrolled Amendment to HB 6

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

granting reciprocity to certain licensed cosmetologists from other jurisdictions.

Amendment adopted.

### SUSPENSION OF JOINT RULES

Sen. Jacobson moved that the joint rules be so far suspended as to allow **SB 207** relative to foreclosure sales to be acted on after the deadline.

Sen. JACOBSON: Mr. President this bill has to do with foreclosure sales. The bill passed the Senate and then it was discovered that the amendment that was put to the bill was faulty. We had a reconsideration motion which passed and the proper amendment was ultimately put on but the passage of that bill did not conform to the joint rules and the Speaker of the House has requested that we have a proforma suspension of the joint rules with respect to this particular bill so that the bill may lay in the house properly. In order to keep the ballgame straight.

Adopted.

### ANNOUNCEMENTS ENROLLED BILLS AMENDMENTS

HB 332, requiring records relative to meals and rooms tax to be kept by each operator for a 3 year period.

Sen. Lamontagne for the committee.

## Enrolled Amendment to HB 332

Amend section 2 of the bill by striking out lines 1-4 and inserting in place thereof the following:

2 Preservation of Records. Amend RSA 78-A:22, III (supp) as inserted by 1967, 213:1 as amended by striking out said paragraph and inserting in place thereof the following:

Amendment adopted.

HB 555, creating a state historical records advisory board and making an appropriation therefor. Sen. Lamontagne for the committee.

## Enrolled Amendment to HB 555

Amend the title of the bill by striking out same and inserting in place thereof the following:

## AN ACT

creating a state historical records advisory board.

Amendment adopted.

HB 475, providing for payment of a claim to Charles R. Sargent of Laconia and making an appropriation therefor and relative to the payment of small claims by the department of public works and highways.

Sen. Lamontagne for the committee.

## Enrolled Amendment to HB 475

Amend section 2 of the bill by striking out lines 1-5 and inserting in place thereof the following:

2 Small Claims. Amend RSA 229:8-a as inserted by 1957, 266:1 by striking out in lines 5 and 7 the words "one hundred and fifty dollars" and inserting in place thereof the following (\$300) so that said section as amended shall read as follows:

Amendment adopted.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, June 2 at 1:00 p.m.

Adopted.

### LATE SESSION Third Reading and Final Passage

HB 481, amending the charters of certain savings banks.

HB 856, relative to the inspection of used motor vehicles offered for sale by retail dealers.

HB 218, renaming the bureau of off-highway recreational vehicles; renaming the supervisor of the bureau; and creating additional responsibilities for the bureau.

HB 213, relative to reconsidering an action taken at a town meeting, village district or school meeting district.

HB 1078, relative to the establishment of a permanent subcommittee on architectural barrier free design of the governor's committee on employment of the handicapped.

HB 884, relative to the payment of wages to an employee who reports to work at the request of his employer.

HB 123, relating to the establishment of complimentary facilities by banks.

HB 331, providing for the disposal of septic tank material.

HB 353, changing the town charter of Hanover to make sewer rentals the only method of payment for sewage disposal expense.

HB 459, relative to septic tank information for property buyers.

HB 398, imposing fines on zoning violators.

HB 227, relative to procedures for appointment and removal of the deputy commissioner of safety.

HB 975, relative to mandatory installation of smoke detectors in structures for occupation built after 1978.

HB 1032, relative to the Saco watershed commission.



HB 313, prescribing the manner of posting land and providing a penalty for trespassing on posted land.

HB 243, relative to a hunting accident in which a person is wounded or killed.

HB 801, relative to providing certain additional documents when applying for a marriage license.

HB 752, relative to the time limit for reporting divorces to the bureau of vital statistics.

HB 467, relative to charging manner of death.

HB 892, relative to temporary transfer of prisoners.

Adopted.

Sen. Bergeron moved to adjourn at 5:10 p.m.

Adopted.

## *Thursday, June 2*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by Senator Jacobson.

Help us, oh Lord, in the hurly-burly world of last minute legislative decisions to keep our perspective clear and our temperatures cool. In any of our stresses let us seek the solace of thy enjoyment always. Open the windows of our souls so that we continually receive thy refreshment.

Amen

Sen. Provost led the pledge of Allegiance.

### HOUSE MESSAGES

### HOUSE REQUESTS CONCURRENCE

### First Reading and Second Reading and Referral

CACR 16, relating to the date the secretary of state shall lay the votes for governor before the senate and house of representatives. Providing that the secretary of state shall do so the first Wednesday following the first Tuesday in January. To Rules.

## HOUSE REFUSES TO CONCUR

**SB 358**, relative to the denial of an application for a credit card.

## ENROLLED BILLS REPORT

HB 541, establishing a Livermore Falls Gorge study commission and making an appropriation therefor.

HB 936, relative to the good samaritan law.

HB 436, revising the state tax on harness racing.

Sen. Lamontagne for the committee.

## HOUSE CONCURS

**SB 287**, amending the state operating budget and making an appropriation therefor.

Sen. Bossie served notice of reconsideration on HB 213.

## COMMITTEE REPORTS

HB 1178, establishing the offense of using excessive fuel and specifying the effects of a conviction for using excessive fuel. Inexpedient to legislate. Sen. Bossie for the committee.

Sen. BOSSIE: The committee after great deliberation and consideration of this bill feels that this is really not the time to dabble into a very serious matter. Basically what it would do is to take speeding from 55 mph to 70 mph and put it in a special classification so as not to be anything more than a violation. Speeding is one thing and we just can't for the life of us figure out what benefit this would have to society in general and to the general population of the state and most of the evidence presented and most of the witnesses were against it. In fact the sponsor of the bill was the only one there and we had considered amending the bill to put on a few good things but we really after all, just decided that the best thing for this bill to do with it was to just kill it. So we would recommend that the senate follow the recommendation of inexpedient to legislate.

Adopted.

HB 867, requiring telephone companies to list the names of both husbands and wives in their directories. Ought to pass. Sen. Foley for the committee.

Sen. FOLEY: Mr. President, this is a new project that is presently being done by the telephone company for a limited amount of time. It requires all telephone companies doing business in the state to provide married couples with the option of having a directory listing which contains the couple's surname followed by each of their first names and it shall be done without additional charge. We do have a higher interstate charge for in-state calls than most other states and the bill intends that this shall be done at the request of any of the people having a telephone and shall be done without charge. At the present time in your telephone bill this month there is a small slip like this which allows you to do it now with no extra charge but only until August 11, 1977 will the company accept them without charge. After that date there will be a charge of 7.50 flat rate if you wish to change your listing in the telephone book. We felt that there are people, one of the couples will have died. There will be other instances where changes will have to be made after August 11 through no fault of your own and it was felt that the company can do it and still maintain the good amount of profit they can make, surely this would be a service to all of the people not only for 90 days but any time that anybody would request a change. The committee felt the bill ought to pass as presented to us by the house.

Sen. LAMONTAGNE: What happens if the husband dies and she wants to leave her husband's name in the telephone book?

Sen. FOLEY: She can.

Sen. LAMONTAGNE: Does this make it compulsory?

Sen. FOLEY: No it is all optional.

Sen. Brown moved to lay HB 867 on the table.

Adopted.

HB 950, relative to defining service territories for electric utilities. Ought to pass. Sen. Foley for the committee.

Sen. FOLEY: This bill formalizes a procedure that the public utilities commission has been using for many years. Testimony indicated that the public utilities commission needs the statutory basis to formalize actions which it has taken in this area of line extensions in the last several years. No one objected to this bill and we move its passage.

Adopted. Ordered to third reading.

HB 1083, relative to time-of-day electric utility rates. Ought to pass with amendment. Sen. Bossie for the committee.

Sen. BOSSIE: Mr. President the amendment as offered by the committee is on page 9 of today's calendar. As you probably have all heard about this time-of-day stuff. The public service company of New Hampshire through the authorization of the public utilities commission has started a test period of one year with 100 different customers to determine the possible savings factors for the various people. What the original bill did as it came from the House was to compel any energy supplier, such as Public Service Company or the other electric utility companies in the state to require them to give you time-of-day service. So that those who would use the facility in the late hours or early hours of the morning, it conceivably could be to your advantage. What the committee did in its amendment is to allow optional time-of-use rates. Basically it would provide that it is up to the customer to determine if they would like to have time-of-day rates. And rather than make it compulsory because there are a lot of people who will not save any money by time-of-use rates because of the way they work and their work habits. We feel that this is kind of worked out between a number of the interested involved including the consumer interests. So the various utilities were involved, a professor who represents the consumer interest from Dartmouth college who was there and he had to work on this amendment and it appeared that with the amendment that the bill would be a good one and would be acceptable to all. I would ask the senate to concur with the amendment and with the bill and we'll send it back to the house in this manner.

Sen. LAMONTAGNE: Hasn't the Public Utility Commission got the right to take care of this without our butting in?

Sen. BOSSIE: Senator they have had four years to do it



and they just started doing it. We feel there is nothing wrong with this even the PUC agrees with this, with the amendment. It possibly will help people. The PUC has been under fire as you know for the last year or two and not all together their fault. We see no problem with having this as a law rather than the way they are doing it. And I think the public service company of New Hampshire would agree that this amendment would be satisfactory to them as well as to all.

Sen. LAMONTAGNE: The PUC is in favor of this bill?

Sen. BOSSIE: They appeared in opposition to the bill as it was. Since that time they made themselves available, their executive secretary. I don't know if he had seen this amendment but it is agreeable to everyone else and I don't know about that. I don't see how they could oppose it.

Sen. LAMONTAGNE: Did you as chairman of the committee get in touch with the PUC to find out if they agreed to the amendment?

Sen. BOSSIE: No I didn't. As far as I am concerned the legislature is the dog and they are the tail. They wag when we want them to wag. I don't wag for anybody. I ran for the office, I set the policy and they carry it out. I have no great opposition to them and they have a lot of fine people and I know quite a few of them well. But we should set the policy not them.

Sen. MONIER: Is that perhaps why you are against the dog bill?

Sen. BOSSIE: Possibly.

Sen. HEALY: In this bill how would they decide on the charges, would they have to have new meters, just how would this be affected?

Sen. BOSSIE: There is some conflicting testimony on this. Senator Smith's White Mountain Power Coop said no, those meters are okay, they feel the bill is good the way it passed the house. The PUC of New Hampshire feels that there would be additional need for other meters that cost I think \$30. This will not require any extra meters. I would imagine that anyone who wanted to have this optional time-of-use rate would have to apply for it and they probably would be charged for the installation of the meter. It would be a special meter and this how it would be affected and if they save money on it bless them.

Sen. HEALY: You say that the intent is there but is that in the bill? About the meters and so forth.

Sen. BOSSIE: I don't think that is in the bill but obviously the PUC commission may allow this as part of their tariff. And the tariff would provide for certain things and if there are several meters they certainly can charge for installation and use of them. I don't think that is a problem.

Sen. LAMONTAGNE: Senator how many members of your committee were present at the time of the hearing.

Sen. BOSSIE: I would say 5 out of 6.

Sen. LAMONTAGNE: Five were present?

Sen. BOSSIE: As you know with every committee, people come in and people go out. I don't keep track of them. I am no schoolteacher. I don't care—they want to walk out? Walk out. As far as I am concerned they were all there sooner or later except the President of the Senate who had other duties.

Sen. LAMONTAGNE: Don't you have minutes of your meeting stating who was there?

Sen. BOSSIE: They aren't typed and in our file right now.

Sen. LAMONTAGNE: Do you know that at this time you make me feel that you were part of the PUC right now and all these laws that are coming before us?

Sen. BOSSIE: Well I'll agree to the extent that this is very heavy stuff and we have this bill 1083 and this is the heaviest bill I have seen come through this Senate in a long time. Now just because it is heavy, very technical, and I for one don't understand it all, and I suspect you may not know it all, there is no reason why we can't determine—after all we are the policy makers. If we don't know enough about it let us call in the experts. That's what we are paying them for.

Sen. Lamontagne moved to make HB 1083 a special order for Wednesday, June 8.

Sen. LAMONTAGNE: Mr. President and members of the Senate, I have to agree with Senator Bossie but there is some of us that do not know much about these bills that are coming before us and certainly I would like to have the opportunity of being able to get some information and to find out whether or not we should adopt this as law instead of having it by regulation of the PUC.

Sen. FENNELLY: I would like to rise and explain to a certain degree HB 1083. We have to remember that there are very few bills submitted in the Senate pertaining to this area of energy and the public service and so forth. They are all

House-oriented bills. I sponsored SB 351 which was left in committee waiting for 1083 to get over here. What it does, under my bill, is to allow the consumer to put an additional meter on his house at a cost of about \$30.00. The only way you are going to save energy in this state, is if you can show the housewife and the husband to do certain things at certain times that it is going to save money. On this particular bill if you wanted a meter installed the cost was \$30.00. If the wife wants to do the wash at 10:00 o'clock in the evening, it is going to cost her 18c to do a load of wash. If you do it at 10:00 o'clock in the morning it is going to cost around 41c. So the cost of putting a meter in would be absorbed in a matter of just a short period of time. That is what the bill does. I will support Senator Lamontagne's motion.

Adopted.

HB 741, establishing a study committee to determine financing methods and requirements for decommissioning of nuclear power facilities. Ought to pass with amendment. Sen. Saggiotes for the committee.

#### Amendment to HB 741

Amend paragraph II of section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

II. The 7-member committee shall be composed as follows:

(a) two members of the house of representatives, one from each political party and appointed by the speaker of the house.

(b) two members of the senate, one from each political party and appointed by the president of the senate.

(c) one member designated by the public utilities commission.

(d) one member of the public service company of New Hampshire appointed by the president of said company.

(e) one member appointed by the governor who shall be experienced in the management of trusts.

Sen. SAGGIOTES: This bill is amended by the House, sets up a committee of House, Senate, Governor, Public Utility

Commissions and Public Service Companies of New Hampshire's designees to draw up legislation that would provide a fair, cost-efficient means to insure financial responsibility by utilities in the decommissioning of nuclear facilities. There was no opposition to the bill at the public hearing that was held in the senate. The committee amendment is on page 10 which changes the composition of the membership of this committee. It is a 7 member committee, 2 members from the house of representatives, one from each political party, and appointed by the speaker of the house, two members of the senate, one from each political party, appointed by the president of the senate, the public utilities commission has one designee, the public service company of New Hampshire appointed by the president has another designee and the governor has one also. There was no opposition to the bill. The PUC supports it and has offered assistance in the drafting of legislation for this.

Sen. LAMONTAGNE: Could you tell us whether or not if this group gets together, will this interfere in any way with Seabrook?

Sen. SAGGIOTES: It could possibly be helpful.

Sen. LAMONTAGNE: You say it might. Can we be assured that this would be helpful?

Sen. SAGGIOTES: Mr. President, it depends on the type of legislation that they come up with. All the bill does is set up this committee to come in with proposed legislation.

Sen. LAMONTAGNE: Senator the thing I want to be assured of before I cast my vote, is to make sure that there will be no interference with the Seabrook project. What about people who might be put on this board who were in opposition to Seabrook, would this affect them?

Sen. SAGGIOTES: It has nothing to do with it. It only sets up a committee to propose legislation to provide some type of a fair, cost-efficient method of financial responsibility by the utilities companies in the decommissioning of nuclear facilities.

Sen. BROWN: Senator in committee wasn't that testified to that this is practically going on now and all the people that were there were in favor of this bill?

Sen. SAGGIOTES: That is the way that I understood it. In the words of our former Senator and colleague it is a good bill. No really, it is going to provide for this assistance in the decommissioning so that the companies are carrying a finan-



cial, responsible method in decommissioning their nuclear facilities.

Sen. SANBORN: I assume Senator that we are talking about decommissioner sometime in the future, nuclear plants located within the state of New Hampshire.

Sen. SAGGIOTES: Yes. Furthermore, not specifically Seabrook.

Sen. SANBORN: It would have nothing whatsoever to do with Uncle Sam decommissioning a nuclear submarine at Portsmouth?

Sen. FOLEY: I simply want to reiterate what Senator Sanborn said, this bill supposes that there will be a nuclear power plant in Seabrook and as everyone knows nuclear power plants are good for only approximately 25 to 30 years and after that they have to be decommissioned and this bill will simply provide some comprehensive planning in advance for when the decommissioning will take place. That is all the bill does.

Sen. BOSSIE: I rise in support of the committee proposal and the committee amendment. I can't understand why anybody would oppose this. It is just a study, don't worry, it doesn't do anything that you might not want. The amendment provides simply that the Senate and the House get equal representation on this study committee. As you know, the house is inevitably doing this, they are putting 4 or 5 people on a committee and have one Senator. Well in this one they have 3 or 4 house members and one Senator. This makes it 2 and 2. It is a decent bill.

Sen. LAMONTAGNE: Mr. President the main reason I was asking these questions is that I was not aware until Senator Foley explained something to me. I have asked these questions on what I was going to be voting on. I have been informed, I am satisfied with the information given to me and now I will support the bill. But I am not going to support any piece of legislation until I know what I am voting on.

Amendment adopted. Ordered to third reading.

HB 16, authorizing out of state municipalities to participate in district fire mutual aid systems. Ought to pass. Sen. Foley for the committee.

Sen. FOLEY: The Interstate Cooperation Committee met with 2/3's of the committee present. We heard this bill that authorizes out-of-state municipalities to participate in district fire mutual aid systems. Under present law there is no actual authorization for out-of-state municipalities to join a state district fire mutual aid system. It simply legalizes what the people on the border of Vermont and New Hampshire are doing and the border of Maine and New Hampshire are doing. We do have mutual aid and this would make everything legal. I move its passage.

Adopted. Ordered to third reading.

HB 415, relative to penalties if found intoxicated while hunting and relative to implied consent. Ought to pass with amendment. Sen. Bossie for the committee.

Sen. BOSSIE: This is a bill that was introduced by the Fish and Game to extend the implied consent law from provisions of RSA 262 to those who are hunting. It provides that any one who hunts in our woods by doing so, has implied consent to taking a breathalyzer test if he is caught and suspected of being under the influence of intoxicants. What the amendment does and is on page 10, it provides under 262A, 262C, and under this law that if a hunter is found to be intoxicated while he is hunting he loses his license for a year, but we do in this amendment is mandate at the end of the year, he is to get it back. No ifs, ands or buts. He also implies by this amendment on page 11, that anyone found guilty for driving while intoxicated, shall have their license restored at the end of the period for which the court revoked it. Now a lot of senators have discussed this with me and what has happened in the state of New Hampshire is if somebody loses their license for 90 days after that period they go and apply for their license back and they have to go through a rigamarole of bureaucracy that would stretch the imagination. They would ply you to go to counselors and all sorts of things which were not required by the court. The court sets the penalty not the department of motor vehicles. We feel with this amendment that we think the law should be such that anyone who is caught, driving or hunting while under the influence should suffer the fullest penalty of the law. But the court determines and the law that determines how long

you shall not have a hunting license or driving license. At the end of that period we want it restored. So we are asking you to go along with that amendment.

Sen. LAMONTAGNE: Senator can you tell us how many cases that we have had of people hunting and that this bill would have any effect?

Sen. BOSSIE: Apparently there is no law now which precludes anyone who is drunk and who is hunting, there is nothing in the law now. Mr. Butterfield of the department is the one who presented the bill to us. He didn't say just how big a problem it is, you would probably see more of it in the north country than we would down in the city in Manchester. To add a little to your concern, this is a bill that deals with the offense, it will make it a brand new offense. Hunting while under the influence of intoxicants. What the amendment does and the amendment is a good one. It provides—it has nothing to do with hunting—it has something to do with the penalties as provided under this bill and they are similar to the ones for driving. If you are convicted of hunting under the influence after a year this bill provides that you are to immediately have your license restored. At the same time it provides an amendment to the motor vehicle law that after you have had your license suspended for driving under the influence of intoxicants you are immediately to have your license restored. None of the dilly-dallying they do. This is to reform the act. I know of your concern with the first part of the bill but now we are on the amendments and I think they are good. Everyone that I have talked to have agreed.

Sen. ROCK: Senator is it my understanding that your answer to Senator Lamontagne, were he to have some question about the main part of the bill, and wanted to clarify that question you wouldn't have any objection to him clarifying the question on the main part of the bill for what you would like to do now, is pass the amendment, which is essential, and perhaps consider another amendment should there be one forthcoming and then let the senator from the first district make his motion, if he were thinking about a motion.

Sen. BOSSIE: Fine that sounds like a good way to do it.

Sen. Lamontagne moved that HB 415 be laid on the table.  
Motion failed.

## Amendment to HB 415

Amend section 2 of the bill by striking out the same and inserting in place thereof the following:

2 Restoration of License. Amend RSA 262-A by inserting after section 62-b the following new section:

262-A:62-c License Restored. Notwithstanding any other provision of law, whenever any court revokes or suspends a license pursuant to RSA 262-A:62 for a stated period of time, the director of motor vehicles shall restore said license immediately upon the expiration of the period of revocation or suspension ordered by the court.

3 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted.

Sen. Rock proposed a further amendment to HB 415.

## Amendment to HB 415

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Restoration of License. Amend RSA 262-A:69-m (supp) as inserted by 1975, 429:2 by striking out said section and inserting in place thereof the following:

262-A:69-m Restoration of License. Notwithstanding any other provision of law to the contrary, the director of motor vehicles shall reissue a license to a resident, or restore operating privileges to a nonresident, whose license or privilege to operate has been revoked for failure to submit to a test pursuant to the implied consent law prior to the expiration of 90 days when such person is not found guilty of a violation of RSA 262-A:62.

4 Effective Date. This act shall take effect 60 days after its passage.

Sen. ROCK: The amendment that I am referring to is just being distributed. I prepared this amendment because of the strong interest that I had in the issue of restoration of licenses having to do with the implied consent issue on motor vehicle violations. I have a constituent in my district



who because he did not understand the implied consent law refused to take a test. He was an individual who had difficulty understanding certain things and he was not according to the court case, in any sense under the influence of liquor. He had a trial on this and the courts ruled that indeed he was not guilty of driving under the influence and because of his misunderstanding he was declared not guilty. Now the problem here is the same problem that Senator Bossie has referred to and these are very rare cases but they do happen and it is my feeling that if the person was found not guilty by the courts, that is the final test in this country, the courts have found him not guilty of this offense then he is certainly not subject to punishment. If you are not guilty you are not guilty. This amendment says that if you are found not guilty by the court of the violation that the director of motor vehicles shall give you back your license. The only change in the statute is the one word may which in the second line of 262a:m now reads may and my amendment with Senator McLaughlin changes that to read shall. If you are innocent you are innocent. Why should you be punished waiting months to get your license back when you are not even guilty? I hope you will adopt this amendment to the bill and I will accept a further motion so he can study the rest of the bill.

Sen. MONIER: Senator Rock we have just adopted an amendment to this. Are you aware that the way you have now adopted this amendment would probably wipe out that previous amendment and would you like to ask for a recess to check that with the clerk?

Sen. ROCK: That is not my understanding Senator I would be happy to answer any questions you have about it. It deals with a different section of the statute.

Sen. MONIER: Did you understand my question?

Sen. ROCK: Thank you for your clarification. When the amendment was drafted by legislative services, the committee amendment had not yet been adopted and so while it refers to a different section which is what I tried to answer, Senator Monier is absolutely correct because the amendment does wipe out a section and insert a new one and my amendment wipes out the same section and inserts a new one. But that is not my intent. My intent is to add this on and I think we can clarify that with a stroke of the pen.

Sen. BLAISDELL: Senator Rock this goes back a long

time ago when Senator Saggiotes and I in 1965, I think we both voted against the implied consent law. I had a constituent of mine in Keene picked up, he didn't understand the implied consent law, he went to court and was found not guilty. He still lost his license, this amendment would upon being found not guilty, give him back his license back immediately?

Sen. ROCK: Right and I had the same problem.

Amendment adopted.

Sen. Lamontagne moved that HB 415 be laid on the table.

Sen. LAMONTAGNE: Mr. President I would rise in favor of the amendment as it is. It does eliminate a section that I definitely disapprove of and the reason for it is this: I don't know if the Senators are aware that this could be a very bad bill. For one reason, in the northern part of New Hampshire this is where you really have the biggest area for hunting. All better than any other part of the state as far as hunting. All the big woods are up north. Therefore I have been many, many times in different parties in different areas of the north country and I have seen groups not only residence but those who come from out of state, during the evening that they are not hunting, but they do have some of these hunting parties and therefore they do use alcoholic beverages. So the next day there is no question that these individuals who had the party the night before had alcohol in their blood. If there were proof that there were accidents that have been caused by people who partied in the evening, then I would be in favor of the bill. But I don't know of one accident that ever occurred because of alcoholic beverages. Why turn around and force more laws onto the people who go hunting. I think it is wrong.

Sen. BOSSIE: Senator from what you have said may we imply that your belief is that anybody who wants to be drunk and go hunting with a weapon may do so?

Sen. LAMONTAGNE: Let me answer it this way Senator. Nobody has got a firearm of any kind while they are partying. The hunting goes on the next day and the next day is when it becomes daylight, is when they hunt. You may think it is funny but I'm going to tell you right now there are such things as people who do violate the law and do go hunting with a firearm at night and get arrested for it.

Sen. BOSSIE: Senator is it not now a crime in New Hampshire to be drunk? Just plain drunk? Even without a gun in your hand?

Sen. LAMONTAGNE: You don't have to be drunk to be under this law here.

Sen. BOSSIE: No I am asking you, is there a law in New Hampshire that if you are in a public place, and you are drunk, that you may be arrested and put in jail?

Sen. LAMONTAGNE: No question about it, the law is on the books.

Sen. BOSSIE: Would you say further that if you had a dangerous instrument in your hand, a gun, that you perhaps could cause somebody some danger because of the fact that you are under the influence? You perhaps just like driving a car, if you are under the influence, there is a good chance that you cannot conduct your car properly and here you cannot hunt properly?

Sen. LAMONTAGNE: I think that this is dreaming a little far ahead. You should have seen some of the parties and you might be able to understand it.

Sen. SANBORN: Senator Lamontagne, I realize and I assume that the hunting parties that you have up in your area they usually come up there and spend a week, hire a lodge and have a regular hunting party.

Sen. LAMONTAGNE: That's correct.

Sen. SANBORN: Do you realize that there are some hunting done down in this end of the state like in Rockingham county and Strafford and in those areas the hunter gets into his car before dawn in the morning and comes dashing up to my hometown of Deerfield or someplace like that and spends the day and then goes back that evening. Usually he may have a couple of jugs and maybe a case of beer in the back of his car, do you realize that?

Sen. LAMONTAGNE: That's possible.

Sen. SANBORN: And do you realize that many afternoons after they have consumed  $\frac{1}{2}$  a fifth and  $\frac{1}{2}$  a case of beer that they are not exactly in the best of condition to be out in the woods back of my house with a rifle.

Sen. LAMONTAGNE: That's true, in this area.

Sen. SANBORN: So what is the harm of this bill for my area.

Sen. LAMONTAGNE: You know that the places to hunt in this area are surrounded by town roads and therefore anyone

on a town road now the officer has a right to arrest anyone under the influence. So therefore you do not have to put this law in to punish hunters who are way into the woods. This means that some people who are approximately 20 to 30 miles into the woods could be arrested. I don't see any need for it.

Sen. FENNELLY: Senator Bossie I have a feeling that we are going to have to either vote this bill up or down, maybe through your wisdom as an outstanding lawyer, how could we study this bill if we send it to study committee?

Sen. BOSSIE: There is no way to study it. The only way that I could suggest is the a DWI in Coahaus county would be exempt. Is that what you're thinking? I understand.

Sen. ROCK: I am just raising a point of order Mr. President. I don't know what the hunting and the rifles had to do with my amendment. My amendment does not deal with hunting, rifles or parties in the north country or anything like that. It deals with the implied consent law when a person is found innocent. I would hope that we could get back to the amendment if that is a proper order and then discuss the bill.

Sen. LAMONTAGNE: Senator Rock haven't you said that possibly you would, if your amendment was adopted, take the first section of the bill out so that the other section of the bill which has already been adopted, the amendment has already been adopted by the committee? Isn't that right? Hasn't that something to do with hunting?  
with hunting?

Sen. ROCK: No, what I think I said Senator was if my amendment was adopted I would acquiesce to a move to lay it on the table so a Senator could check further on it. That's what I said.

Sen. LAMONTAGNE: I go along with that.

Motion failed.

Ordered to third reading.

HB 750, permitting the appointment of an assistant county attorney for the county of Rockingham. Ought to pass with amendment. Sen. Bossie for the committee.



## Amendment to HB 750

Amend RSA 7:33-c as inserted by section 1 of the bill by striking out said section and inserting in place thereof the following:

7:33-c Assistant Attorney. There may be an assistant county attorney for the county of Rockingham who shall assist the county attorney in the discharge of his duties. He shall be appointed by the county attorney with the consent of the superior court and his term shall run concurrently with that of the county attorney, and he shall act under the supervision, direction and control of the county attorney. In the absence of the county attorney he shall perform all the duties of said office. The annual salary for the said assistant shall be set by the Rockingham county convention, upon recommendation of the executive committee. Said assistant county attorney shall not directly or indirectly engage in the private practice of law, nor shall he accept any fees of emoluments other than his official salary for any legal services. Private practice of law shall not include the provision of legal services without charge to the members of the assistant county attorney's family when the same shall not conflict with his official duties.

Sen. BOSSIE: Mr. President, the amendment is on page 11 of today's calendar. All the amendment does is to make the position of assistant county attorney, full-time. As you see, the next bill that will be coming up is to make the Rockingham county attorney full-time. Apparently the delegation from Rockingham county have all agreed to the bills as well as to the amendments. What we want to do is make sure if the Rockingham county attorney cannot take part-time clients, then neither can his assistant because that would be one hell of a funnel. So the bill as amended is to make sure that it is full-time and I think it is a good bill, good amendment.

Sen. LAMONTAGNE: I rise in support of the bill, simply because we are going to have some youthful, new lawyers coming up soon. Sure they are going to need jobs and providing the fact that there is no pension with it I heartily endorse the bill.

Amendment adopted. Ordered to third reading.

HB 1055, prohibiting the Rockingham County Attorney from engaging in the private practice of law. Ought to pass with amendment. Sen. Bossie for the committee.

#### Amendment to HB 1055

Amend section 2 of the bill by striking out same and inserting in place thereof the following:

2 Salary of Rockingham County Attorney. Amend RSA 23 by inserting after section 9 the following new section:

23:10 Salary of Rockingham County Attorney. Notwithstanding RSA 23:7, the salary of the Rockingham county attorney shall be established by the county convention upon recommendation of the executive committee not later than July first of each even numbered year for the term of office to commence the following January 1. Thereafter, said salary shall not be decreased during said term but the county convention upon recommendation of the executive committee may increase the same at any time.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. BOSSIE: The amendment simply provides that with the passage of the bill and with the fact that the county attorney shall be full-time, we would want in there that the county convention who would set his or her salary would not lower the amount of salary during their term of office. This is an instance in which say an individual who is less than loved in the county received the job and was elected to it, that one way to work him out of existence is to lower his pay to \$2500 and it is a full-time job. Now it is obvious that nobody could do it. What this provides is that anyone who runs for the office would know ahead of time what the job pays and even though the county convention can increase their salary, they can't decrease it. We have discussed this with the Rockingham county delegation and a number of them and it appears to be a good amendment.

Amendment adopted. Ordered to third reading.

**Special Orders 2:45**

HB 605, to provide a special liquor and beverage license for race tracks.

Sen. FENNELLY: I had some problems with this particular bill. I think Senator Downing said this particular bill was debated to a great length in the last session but after checking with the liquor commission and so forth it is more or less of an administrative bill and so forth and they informed me that under this bill they will not have any additional hard liquor in the grandstand area. It is an administrative type of thing that they requested.

Adopted. Ordered to third reading.

HB 804, conforming the New Hampshire clean air act to the requirements of the federal Environmental Protection Agency.

Sen. Rock moved an amendment to HB 804.

**Floor Amendment to HB 804**

Amend the bill by striking out section 9 and inserting in place thereof the following:

9 Effective Date. This act shall take effect July 1, 1978.

Sen. ROCK: The amendment that I propose for HB 804 has to do with the new section 9. The section on the bill before the senators is the unamended house version of the bill. The amendment changes what is now the effective date clause and it is a very simple amendment. It says that the act will take effect July 1, 1978. Under present conditions if the act were to be passed as it is before the senate it would take effect 60 days from the present date. So what we are in effect doing is extending approximately 10 months so we can find out what some of the clean air act regulations might be that the director would have to deal with coming up from Washington. It would also give some of those who would be affected by it a chance to get their ducks in a row. On an amendment like this which we have done very

frequently on bills of this magnitude, makes a lot of sense. It just changes the effective date.

Sen. BROWN: Is it not true Senator that at the present time the EPA has relation to the emission and the air pollution is under challenge in the courts and this would help us because when those decisions are made, we can judge accordingly?

Sen. ROCK: Absolutely. There are court cases pending right now, there are regulations being formulated right now and we would be in better shape to deal with them rather than to go off half-cocked, whether I should use that phrase right now, yes you are right Senator.

Sen. MONIER: I think it is a matter of record and I'll keep it very brief because we want to get out of here, but I have been one of them who has been against the bill the way it was on the basis of what I said about emission controls and so forth. I can accept it if we will extend it a year without any further debates or arguments. Simply because I think that within that period of time these things will be resolved and if our laws are more stringent than that we can amend them.

Amendment adopted. Ordered to third reading.

(Sens. Fennelly, Foley, and Hancock recorded in opposition to the amendment. Sen. Bergeron, and Sanborn recorded in opposition to the bill.)

## COMMITTEE REPORTS

CACR 6, Relating to: Meetings of the Legislature. Providing That: The Legislature Shall Meet in Annual Sessions and Receive Mileage for not More Than 90 Legislative Days During the Biennium. Ought to pass. Sen. Rock for the committee.

Sen. ROCK: I am sure the issue needs very little explanation to anyone who has been around the legislative halls for any length of time. The legislation says that we send back to the electorate, once again the question of whether or not we would be able to distribute in a more evenly fashion the 90 legislative days we have to work in each bien-



nium. It does not extend the number of days in which we deliberate, it merely says that they could be over a two year period. The thinking in bring the resolution out ought to pass was weighed against those that would say but the people have already voted on this before, we are just bringing back the same issue. That well may be true. But in bringing back the same issue I hope you will remember as you vote on it just what we have been working on for the past 10 days and how the legislature in this period of time oftentimes acts in haste, gives bills short shrift, holds hearings limited to five minutes and I can think of a particular bill in which I had a great deal of interest that has been under study for two years and when it came before a committee for a hearing the announcement was that we will have five minutes for a hearing on this bill. We are just not acting in good, responsible, legislative fashion when we try to run the state on an every other year basis. To those who would argue then that we have our special sessions I think those at times somewhat of a fiasco. We came back last year for a one day special session, we wound up being here from January 1 well into June. And while we may have extended only 15 legislative days, again, I submit that some of the legislation and some of the actions could have been better handled if we were prepared in an orderly fashion to do our work spread out over a more reasonable period. I don't think we are acting as reasonable legislators when we do things the way we do when the crunch comes. Now of course there is nothing in this to tell us that there won't also be a crunch at the end of a 40 or 45 day session. But I think we have a better handle on the finances, I think we have a better grip on what is happening, day to day in the state and I would also remind the Senators of one issue that has bothered me not only in the House but in the Senate, is that when the end of the legislative session comes on June 30, the bureaucrats heave a sigh of relief, say wow, we got rid of them and for the next 18 months we will run the state the way we want. How would the 90 days be spread? I would guess that we would have to leave that in the days of responsible leadership. It could be done in many ways. It could be a 40 days session with a 30 day session on the off-year. It could be one day a week for 40 weeks, I don't know what the answer is to that. But I would hope that once more we go back and ask the people of the state to

consider a change in the constitution to allow us to be more responsible legislators meeting on a more orderly fashion and handling the matters that come before us in the legislature.

Sen. BOSSIE: Mr. President I rise in opposition to this bill. In the past several sessions I have had the opportunity to vote for the bill and for the constitutional amendment thinking that what Senator Rock would happen has in fact happened. Nothing great has happened to change my mind but for the fact that I have seen in the past five years that what we are doing in effect, is generally passing bills that department heads want or passing budgets that department heads want. We are passing the bills that the governor wants. After a while we have a limited amount of time to pass what we want. As I was explaining to Senator Lamonagne about the dog and the tail. After a while you get sick of acting like a tail and just reacting to everything. With the argument that well if we meet in two annual sessions, 45 days for some reason we will have more time and we can do it in a more logical manner. I would hope this would be but you know and I know, I am sure the speaker of the house knows. He is a full-time speaker and he is proud to be labelled as such. Well I am not a rich person as such and I am unable to serve full-time but I do serve for the 90 days that my constituents elected me to do. Frankly, I serve a lot more time than that coming up here to Concord and serving them within my district. I can't for the life of me see how we are going to spend any less time. As we know, even if we meet 45 days there is a way of stretching that out by having committee days in which we can be paid a great legislative mileage of 25c or whatever insignificant sum it is. It is just not worth it. I realize that we are citizens of the legislature and we do this mostly out of the goodness of our hearts, but I think it has come to the time where if people want good government, then they want people who are willing to serve, intelligent to serve, they should consider paying legislators something other than what is paid them 150 years ago when \$2.00 a day was a lot of money. This is a lobbyist, full employment bill. The lobbyists will love it. Frankly with the bills I have seen floating through here there are a number that are fine and certainly needed but a great number are not really needed and they are just patching up the cracks that we made last time. I

realize that this has been on the ballot a number of times in the past several years. Apparently the legislature has met biannually for an even greater number of years. I guess at this point I am not prepared to pass a constitutional amendment which would allow more government. I think the people expressed a few years ago when they voted on this, that they are really tired of too much government. Too many lies, too many bills and frankly seeing our sister state of Massachusetts cranking out bills ten months a year, I would be really upset and trying hard to sleep at night wondering what they are going to do to endanger my liberty. I think it is fine that the legislature meets every other year and that we seem to get our work done and the only real valid excuse that I could find for having it every year is for the budgetary process. I know that this is very difficult to prepare a biannual budget and for that reason we have been meeting annually anyway. We probably always will. At this point I am not prepared to vote for this bill.

Sen. SMITH: Senator Bossie you have been here for a few sessions now and I understand your view about spreading it out over two years but in fact haven't we met in the last two years, and the two years before that, more than 90 days?

Sen. BOSSIE: Mostly because we have had special sessions. I would say that the biennial sessions do not last the 90 days. We in the senate have kept them down to 70 or 80 days.

Sen. SMITH: Those 70 or 80 days that you are talking about, aren't those just days that the legislature meets and in fact there are other days that you are up here in committee hearings?

Sen. BOSSIE: I wouldn't doubt it. I think that during the biennium, the odd year, when we are here, that these whatever types of days, that they are considered, I don't know what.

Sen. SMITH: Senator you can talk about the odd year, but what about the even year? Like last year, didn't you spend more than 15 days up here on a special session?

Sen. BOSSIE: Yes, and we spent time on interim studies and everything else we probably spend 40 or 50 days a year up here. Even in the even years.

Sen. SMITH: Don't you think that there is a strong chance that by limiting it to the 90 days of meetings, that

we will reduce the total number of days that we could meet in a two year period?

Sen. BOSSIE: No I don't. I think what is going to happen and I don't condemn our leader of course, but what it is—the more you meet, there is always going to be an emergency somewhere. We don't have to meet and these things seem to go on wonderfully if we don't have to meet. In order to get re-elected everybody has got a little emergency in their district. I think the time has come to say that hey, we have enough government in the biennium. Why extend it. The 45 days every year that has got to mean more bills. Instead of 2000 bills every other year, it is going to be 1500 bills every year. Whether you have the time for that, as you know, after a while you can wear people down. If you have a bill and you want to get it through, sooner or later you will get it through. It is just a question of time. Senator Lamontagne has shown us that with the facts right bill. He wore us down finally and so if we had it so that the legislature met every six months he would have had it 10 years ago. That is fine it is just that perhaps we have come to the end of the limits of government. Perhaps people don't want us meeting all the time and that is why they continuously vote against this sort of thing.

Sen. SMITH: Senator do you think now that Senator Lamontagne has got his fat trucks bill through he will come back?

Sen. BOSSIE: Senator I believe the good senator from Berlin has many more good ideas.

Sen. BLAISDELL: Have you taken into consideration the budget process where it would make it so much easier?

Sen. BOSSIE: Yes. As I mentioned earlier the only excuse for passing this would be to resolve the very difficult time that your committee has to resolve the budgetary process. Obviously this includes the ways and means finding the means to pay it. Very difficult and I agree but I just don't know in the end that the people want this. Do they want government every year or every other year and give them a breather.

Sen. LAMONTAGNE: Senator do you realize that you have me confused when you mentioned about the fat truck bill. You said something about some cat's tail and also you talked to me about special legislation for Berlin. You have me confused, are you for or against the annual session?



Sen. BOSSIE: I am against the annual session and certain references that I had to you fat dogs, and fat trucks is allegorical in nature.

Sen. HANCOCK: Mr. President and members of the senate, I certainly favor the resolution. As a freshman legislator I have absolutely been appalled and confused by the committee meetings that occur at the same time, the lack of opportunity to appear in favor of bills which I have sponsored and I think that the lengthening of the sessions into annual sessions and the better organization that that would allow, that it would make better legislators of us and perhaps give the public a greater opportunity to be heard as they have not been able to be heard in many cases in the last few days.

Sen. LAMONTAGNE: Mr. President, members of the Senate. I rise very much in favor of the annual session. I personally feel that it would be a better method especially for financing. As you know that it would make it a lot easier for different departments to come in with a budget on a yearly basis instead of having to estimate on the second year. I think when you are estimating on the second year, you are asking for nothing else but an increase in budgets. I think the fairest and easiest way for budgeting would certainly be, if they the departments could come in every year then certainly we would be able to have the departments concentrate in one year and at the same time the house appropriation or even the senate finance and the members of the general court would certainly be able to give the people a better budget than they are doing now. Another reason I favor the annual session you know that there have been study committees established by the general court, Senate or the House. There are many legislators who do come back in the odd years and they make these studies. If we had annual sessions it still wouldn't stop for these people who have some legislators who have been turned over to these committees to make a study. They could do it and I personally feel that you would have less bills if you were having an annual session than you are when you are having to prepare bills and everybody has a pet bill. People want to get credit for it. There is only one thing with an annual session, if a screening committee would

be established between the Senate and the House to screen out a lot of these bills that are coming in that change just a word to make it different and I don't care if it is changing a word, it is a duplication bill and it is a waste of funds. I think if you have such a committee and with the annual session I think you could accomplish a lot more than what we are doing now in having 2000 bills every other year.

Sen. POULSEN: I rise in strong opposition to the motion. Two different points come to mind but first being the crunch that was referred to earlier. I think that if you have it every year you would have two crunches. The second one being if you have it annual it is going to be dragged out and it will be 2 days, one day a week with studies in the meantime so that eventually we would be here essentially all the time in which case I would be in good shape to represent Concord but absolutely no good to represent my own county. I think it completely defies what we are trying to do. We are trying to represent an area and we can come down here and be here for a while and go home again. If we are here all the time how are we going to represent our counties?

Sen. MONIER: Do you also believe or disagree with that annual sessions being held regardless of the mileage and so forth would also allow us to be here and groups among us that like that and spend more money?

Sen. POULSEN: I am sure that you are right. While we are home we are not spending the state's money.

Sen. Bradley moved the previous question.

Adopted.

Sen. Blaisdell requested a roll call. Seconded by Sen. Downing.

The following Senators voted yea: Lamontagne, Smith, Bradley, Jacobson, Saggiotes, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Fennelly, Downing, Foley.

The following Senators voted nay: Poulsen, Gardner, Monier, Healy, Sanborn, Provost, Brown, Bossie, Preston.

14 yeas      9 nays

Motion of ought to pass failed by the requisite 3/5 vote.

Sen. Downing moved to lay CACR 6 on the table.

Adopted.

Sen. Bossie in the chair.

HB 15, exempting the tax on that portion of the dividend that constitutes a return of capital. Ought to pass. Sen. Bradley for the committee.

Sen. BRADLEY: Mr. President, this is a very simple bill which brings our interest and dividends tax in line with the federal scheme on what is taxable for dividends. It says when you get your check typically it would be from a mutual fund, it indicates that a portion of it is return of capital. That it would not be considered to be a taxable dividend for New Hampshire purposes.

Adopted. Ordered to third reading.

HB 301, relative to timber yield taxes and the bond and debt retirement tax. Ought to pass. Sen. Keeney for the committee.

Sen. KEENEY: As you have it before you in the original form would provide that a percent annual interest rate could be charged on unpaid yield taxes. The original bill called for a 10% and the house amended that to 9% and the Senate Ways and Means Committee agrees with the 9%. The other section of the bill which deals with the interest and dividends division was simply a housekeeping change and the charge of collecting that from unincorporated places would come under the commissioner of the Department of Revenue Administration.

Adopted. Ordered to third reading.

HB 437, relative to the payment of assistants and employees of the state racing commission. Ought to pass. Sen. Fennelly for the committee.

Sen. FENNELLY: At the present time the temporary employees that work at the tracks in different areas for the state such as the inspection of the dogs on the markings on the ears if they still have ears, they get paid on a per diem

basis. They can work three programs with one particular pay and get a little overtime. Now it is a peculiarity of their work that they must be there. The actual work isn't that much but the hours are tremendous. What this bill will do is instead of paying them per diem on a program type basis, he is going to get paid for the amount of time that he is there at the track.

Adopted. Ordered to third reading.

HB 1103, relative to population calculation for rooms and meals tax purposes. Ought to pass. Sen. Foley for the committee.

Sen. Foley moved to lay HB 1103 on the table.  
Adopted.

HB 627, prohibiting certain advertising and expenditures by electric and gas utilities. Majority report—Ought to pass with amendment. Sen. Saggiotes for the committee. Minority report—Ought to pass with amendment. Sen. Fennelly for the committee.

Sen. SAGGIOTES: This bill pertains what is allowable and what is prohibited as far as paying out of operating expenses of the utilities companies for promotional, goodwill, political and rate justification advertising. The amendment that is offered by myself is the portion that prohibits the companies from using money for goodwill to be included in their operating costs as far as their rate base is concerned. That is the first amendment that I am offering. The other amendment is to eliminate the portion of the bill that prohibits the public utility from using advertising and contributions as inclusions in their costs of operation in the rate base. What the amendment does is strike out the portion of the bill at the present time that prohibits them from using money for advertising and contributions. The amendment would allow them to do so. There have been at the public hearing in the Senate a great deal of concern expressed by people who were involved with the United Way and other charitable organizations that thought they might be effected with the bill as we had it in the committee and there is a difference of opinion amongst the committee members in



regard to this and I believe there is going to be another amendment offered by another member of the committee that will restore this back into the bill.

Sen. FOLEY: Senator Saggiotes, will this as proposed and amended by you allow United Fund contributions at the present time?

Sen. SAGGIOTES: I think so because we eliminated 375:2-d which says advertising and contributions restricted, it ought to say no public utilities shall use as a cost factor in determining their rates costs for political and charitable contributions in excess of one dollar. We have eliminated that.

Sen. FOLEY: You have eliminated the house amendment?

Sen. SAGGIOTES: That is correct with my amendment. However, we have restored the amendment on goodwill advertising which prohibits them and I have problems with that.

Sen. FOLEY: What is your interpretation of goodwill advertising?

Sen. SAGGIOTES: Senator I am not a lawyer and you could stretch this, you might even be saying that advertising in a newspaper such as we get in my local weekly such as when they get blood donor banks and various businesses, utility companies by a portion of that page and I would call that if we stretched it far enough, goodwill.

Sen. FOLEY: It is not your intention however with this amendment to exclude contributions to United Funds?

Sen. SAGGIOTES: To allow the utility companies to contribute to them and include these costs in their operation costs, yes.

Sen. BRADLEY: What is the difference between the two amendments?

Sen. SAGGIOTES: Maybe I am a little premature, I am going under the supposition according to the calendar that there is another amendment being offered by Senator Fennelly to restore what I have eliminated with my amendment in regards to advertising and contributions so that his amendment will not allow for the utilities companies to include in their costs of operations anything above a dollar. They would not be allowed to include it in their costs if it pertains to advertising and contributions.

Sen. BRADLEY: If I want to allow the telephone com-

pany to make contributions to Mary Hitchcock hospital I should vote for your amendment Senator?

Sen. SAGGIOTES: I would prefer that you support my amendment. However, the other amendment does not prohibit the utility companies for making that contribution. The only thing is that anything over and above a dollar with the amendment they won't be able to include those costs in their costs of operation.

Sen. BRADLEY: If I want to be able to include that, that would be your amendment?

Sen. SAGGIOTES: That is correct. To answer you further, the reason I take that position is because I feel, I know if it were up to me and I am sure to stockholders of the utilities companies they certainly aren't going to be making contributions to charities or to advertising if they can't include these costs in the cost of operation. So what will happen if my amendment is turned down, I think that you will find that many of the utility companies will refrain from making contributions to the United Way, the Greek Church or wherever.

Sen. BRADLEY: All other corporations outside of utilities have that privilege, do they not?

Sen. SAGGIOTES: Yes but the utility companies are monopolies regulated by the PUC.

Sen. BRADLEY: Further, the utility companies have employees who may benefit from contributions also to the Heart Fund, to the Cancer Society and the various other organizations which the utility gives to, is that true?

Sen. SAGGIOTES: Yes that is true, not only their employees but the rate payer himself.

Sen. POULSEN: Does this affect matching gifts like alumni fund and that type of thing that accompanies matching an employee's gift?

Sen. SAGGIOTES: My amendment would allow for the matching gifts.

Sen. FENNELLY: I rise in support of the minority report. What was failed to be brought up here on this very important bill of the amendment to restrict the utilities companies from not donating more than \$1.00 of the consumer's money. In a testimony in committee that the utilities companies, especially the Public Service Company, is donating a tremendous amount of money to different good causes. And of course they are getting tremendous

public relations out of it. Testimony in committee: the Concord Power Company and Exeter Power Company donated x amount of money to build a wing to the Exeter hospital. Well that is fine and dandy but what they are doing is spending our money. We have no control over the advertising of what they spend and it is put directly into the rate base to the consumer. It is my opinion after listening to the testimony in committee that they do it to a great degree to look before the public. What they do not tell the public is that they are spending their money that is costing the consumers of this state x amount of money per year. The amendment basically does this: it lets them limit to a \$1.00 but it also as we all know, they have slush funds, to donate the stockholders money. I am strongly in support of the amendment for this reason: they lobbied very hard to get people like the United Way, the Heart Fund and the Cancer people to appear before the committee and if this bill is passed, public service or the telephone company, will not donate any money. That is a bunch of nonsense. They want good will. The only difference is that they are going to spend the stockholders money instead of yours and ours. And that is what the amendment does and I hope the Senate supports the minority report.

Sen. LAMONTAGNE: Senator could you tell us whether or not it is the utility or any other corporation, have they got the right to take some of their profits and invest it in charitable spending and then get a credit on the taxes?

Sen. FENNELLY: That is absolutely correct Senator Lamontagne, and that is what my amendment says. From the profits of this corporation instead of giving x amount back to the 83% to stockholders in New York, Connecticut and California they are going to take a little bit of that money, if they want to donate to the Heart Fund, they are going to use their own money. That is what my amendment says.

Sen. LAMONTAGNE: Are they taking the necessary funds that you are talking about and turning it over to nonprofit, does the company have the right of getting a reduction on their taxes?

Sen. FENNELLY: That I can't answer you Senator Lamontagne, but I can say this, they are not spending their money, they are spending our money. That is the difference. My amendment says they can still contribute all they

want but not from you and I or the people up in Berlin that are added to the rate base.

Sen. LAMONTAGNE: Let us use it your way. The funds that are being used that comes from the rate users. Isn't there in the law a right for them to take a deduction on their taxes?

Sen. FENNELLY: There probably is Senator Lamontagne.

Sen. ROCK: Senator Fennelly along your line of information, do you get a magazine at home that I get Senator called Government Information or something?

Sen. FENNELLY: At the present time I can't afford it Senator, my billing rates aren't too high.

Sen. ROCK: This is a free magazine that is mailed to you as a legislator. Did you look through that magazine this month and see a big full-page ad for Ma Bell that told about how Ma Bell is now substituting her services for airplanes in bringing government workers to conferences and doing such a marvelous job and if you did see that, who do you think pays for that ad senator?

Sen. FENNELLY: You and I and 210 million other Americans.

Sen. ROCK: Do you think that has anything to do with improving your service or make it easier for you to make a call or reduce your rates or anything else?

Sen. FENNELLY: No it has not and never will. It is just like for some unknown reason the public service company of the state of New Hampshire. It is like a veil that we think we own the company, but I would like everybody to look at the stockholdings from out of state and really know who owns public service.

Sen. SAGGIOTES: Senator do you realize that the type of ad that you just spoke of is prohibited by the bill?

Sen. ROCK: Yes I understand that.

Sen. HEALY: Senator Fennelly I know that number one is promotional advertising. I can understand political and perhaps even goodwill but a firm that is promoting its business and is interfered from doing same I wouldn't think that was good business.

Sen. FENNELLY: I think basically it is the type of political type of advertisement. Let us say that Public Service wants to build a power plant on Montque so they promote in a different area on a referendum. This is what I am talking about when I talk about political advertisements. I wish



I had taken from committee some of the things that they had tried to promote for money.

Sen. HEALY: I concur on the political advertising, but what I am talking about is promotional advertising.

Sen. FENNELLY: You have to remember that we are still dealing with monopoly here now. For example I would like to read you this ad that public service companies put out. We are running this ad to tell you why we are running these ads. Now if that makes sense perhaps you can tell me how. You remember us, Public Service Companies—how the hell can we forget them. We used to be just an electric company, lately we have been a punching bag for all sorts of protest groups. We have been accused from having the highest electrical rates in New England to being inefficient and wasteful in the building of a nuclear power plant, and while these things have been said and are untrue, everyone of them has made headlines. Well just about anything we have said hasn't. We think you deserve to know both sides of the issue and because we do not think you are running for the advertising. So if you have any questions about the fuel adjustment charge or the nuclear plant. Here is the basic heart of the matter, is that you and I and everyone in this room paid for that ad because it goes into their basic rate. That is the difference. My amendment, if they want to advertise this in a hundred newspapers throughout the United States, the stockholders of that corporation must pay for it.

Sen. BOSSIE: Senator isn't it true that at the hearing we understood from certain people who testified that in the past year the public service company gave a number of charitable contributions including \$19,000 to the United Way of Manchester and that during the year the public service company put great pressure on the United Way to drop one of their agencies, the New Hampshire Legal Assistance, because New Hampshire Legal Assistance was representing poor people in regards to the base rates?

Sen. FENNELLY: That is very true Senator Bossie.

Sen. BOSSIE: Isn't it true that the United Way acquiesced as a result of that? And they limited their contributions to New Hampshire Legal Assistance?

Sen. FENNELLY: It is absolutely true. And what I am saying here once again if they want to advertise—our rates should go down. We are talking a lot of money that they

donate which they could take out of the stockholders money just as easily. There is no problem. If we can save 4 or 5 hundred thousand dollars to the consumers of New Hampshire this includes all utilities, then we should do it and support the minority report.

Sen. ROCK: Did anything come up at the hearing Senator about a former lobbyist for the telephone company a Mr. Arthur Kenison buying free lunches for the members of the public utilities commission?

Sen. FENNELLY: No it wasn't but I am very familiar with the article in the Concord Monitor. That didn't come up but I think we have an opportunity at least to make that step and to help the consumer. This is a consumer bill and if anybody says that the public service company or the telephone company or Concord Electric will stop advertising to the United Way is ridiculous.

Sen. Jacobson in the chair.

Question of the majority report.

Sen. Fennelly moved that the minority report be substituted for the majority report.

Senator Fennelly requested a roll call. Seconded by Senator Bossie.

The following Senators voted yea: Blaisdell, Trowbridge, Keeney, Healy, Sanborn, Bossie, Fennelly, Downing, Preston.

The following Senators voted nay: Lamontagne, Poulsen, Smith, Gardner, Bradley, Saggiotes, Monier, McLaughlin, Hancock, Provost, Brown, Foley.

Sen. Rock abstained under rule No. 42.

9 yeas      12 nays

Motion failed.

Motion of accepting the majority report.

Adopted.

Majority Amendment  
Amendment to HB 627

Amend RSA 374:2-a, as inserted by section 1 of the bill by inserting after paragraph III the following new paragraph:

IV. "Goodwill advertising" which is designed to create, enhance or sustain such utility's image or goodwill to the general public or its customers.

Amend the bill by striking out RSA 374:2-d as inserted by section 1 of the bill.

Amendment adopted. Ordered to third reading.

HB 880, relative to telephone calls to emergency services in towns. Ought to pass with amendment. Sen. Brown for committee.

Sen. BROWN: The amendment in the calendar was inadvertently put on incorrectly. The correct amendment is the amendment which you have on your desk. What this does is that it is the bill other than the effective date. This bill allows toll calls within the geographical boundaries of a community to call and the subscriber can call the telephone company, the next billing before they pay their bill and have it deducted, the cost of that toll call for emergency calls within that community. The majority of the committee agrees with the amendment, the sponsor has agreed with the amendment and everybody concerned. It is the intent of this legislation, that after the effective date of this bill the telephone companies will insert in their next billing, information informing subscribers that they may deduct these emergency calls by calling the local office.

Sen. SMITH: Isn't this basically what the policy of the telephone company is right now?

Sen. BROWN: That's right, it is a policy it is not a statute.

Sen. SMITH: Doesn't this seem to be a problem that we discussed on another bill earlier and sent it off to the legislative?

Sen. BROWN: There was a similar bill but this is pertaining to emergency calls only.

Sen. SMITH: If this present amendment is in effect the existing policy of the telephone company, why would it not be better to send this bill to the committee on consumer affairs that was established by the legislature two years ago?

Sen. BROWN: I don't see any problem with that only I don't think you gain very much. Everybody involved has agreed to this, the telephone company, the sponsors, the committee. If you think there is something further to be gained I just can't see it at this time.

Sen. SMITH: What was the intent of the original bill?

Sen. BROWN: That goes into quite a bit of detail. Toll calls within exchanges and so forth, emergency calls and they become such a great distance that it would be financially unfeasible. That was the intent and they realized it, and by doing it in a geographical boundaries, even though the exchanges were different, then it can be done.

Sen. SANBORN: Senator I still don't follow too closely with your explanation. Now many of the small towns like mine and so forth the fire department works on what is known as a red phone. Now when you dial the red phone number it is that later on you have to go and request a refund on the toll charge?

Sen. BROWN: If it is a toll and an emergency call and it is within the geographical boundaries of the community you can have that call deducted from your bill.

Sen. MONIER: Senator is your red phone now a toll call?

Sen. BROWN: We are lucky in my community, we don't have 3, 4 or 5 different exchanges come into the town and I am kind of interested to know how the red phone works in a town that I do know has at least three different exchanges come in and can be damn confusing to a fire department.

Sen. MONIER: Isn't it correct on those kinds that you have a multiple mutual fire system, that when you make the call now in the town that that call is already on a watts line type of thing.

Sen. BROWN: No sir.

Sen. MONIER: Are you saying that you have mutual fire and you have red phone calls that are now currently toll calls that you know of?

Sen. BROWN: Again I don't know how it works in a multiple exchange town. I happen to be fortunate to live in



a single exchange town. And all those in my area are single exchange towns. We don't have a great deal of problem.

Sen. POULSEN: Mr. President I rise in favor of this amendment but I will relate that one time I had a sawmill burn in the middle of the night that was in Bethlehem wherein all the telephones were Littleton phones at that end of town. And a neighbor who saw the fire called me who lived some twenty miles away to tell me the mill was on fire and I said have you called the fire department and he said hell no, that is a toll call.

Sen. Brown moved a substitute amendment.

#### Floor Amendment to HB 880

Amend RSA 378:14-a as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

378:14-a Emergency Calls. Notwithstanding the provisions of RSA 378:14 telephone companies authorized by the commission to do business in any town shall, at the customer's request, adjust the charges for tolls to such customer so that no toll charges shall be imposed for any call from any point within the geographical boundaries of said town placed through such company to the emergency number of an agency of local government located within such town, provided, however, that such request for adjustment is made at the company's business office prior to paying such charges.

Amendment adopted. Ordered to third reading.

HB 986, requiring public utilities' rates to be based on a current level of service. Ought to pass. Sen. Bossie for the committee.

Sen. BOSSIE: A lot of Senators have said that they have had a number of calls on it and many were doubtful as to how they would go on it and they needed a little more time. In fact I think it would not be a bad idea to allow this to have a little more time to see if the people can talk to the Senators rather than just the lobbyists.

Sen. MONIER: If we need a little more time would you

accept an amendment that a special order of business be about October 15?

Sen. BOSSIE: No, I think next Thursday would be nice.

Sen. FENNELLY: I rise in support of the pending motion special order of business. What we are dealing with here is a bill of great magnitude and if it isn't passed it is going to cost the consumers a tremendous amount of money so this is why I am rising to support Senator Bossie's motion to make this a special order of business. As he said maybe some of the Senators can see the people instead of all the high-paid lobbyists.

Sen. MONIER: Just as a matter of record so I can keep straight in my mind, is not next Thursday the last day of passage of bills to the House?

The CHAIR: Next Thursday is the last day for action in the second house for all bills as a legislative day.

Sen. MONIER: Are we going to take up special orders of business on that day, one hour after we convene rather than at 2:30 in the morning.

The CHAIR: The agreement has been made that we take up all special orders on a given day one hour after the session begins and unless that rule is changed the agreement is as stands.

Sen. MONIER: The reason I am making inquiry Mr. President, is because I try to support special orders of business but when we find one like this that has been out long enough and time like we have, so that we can get more telephone calls on the last day of business in which we are handling it with all of them I don't want to see it lost or buried or voted on without all of us here. I wonder if I might ask one more question of Senator Bossie. Would you consider amending this to a day previous to this so it isn't on the last day that we transfer it over and it gets lost in a pile?

Sen. BOSSIE: Senator let me assure you this will not get lost in any pile of mine and I doubt that it will get lost in your pile.

Sen. MONIER: Oh I know it won't get lost in mine.

Sen. BOSSIE: Frankly I would prefer to leave it on the same day, it will be taken up exactly at noontime. It is the first one, I see no problem with it, it is the last day but we are going to have many crunches between now and then and I really see no problem with it.

Sen. Bossie moved that HB 986 be made a special order for Thursday, June 9.

Adopted.

(Sen. Monier recorded reluctantly in favor of the special order.)

### HOUSE MESSAGES HOUSE REQUESTS CONCURRENCE IN AMENDMENTS

**SB 54**, relative to utility collection practices and termination of utility service for nonpayment of charges.

Sen. Bossie moved that the Senate nonconcur and set up a committee of conference.

Adopted.

The Chair appointed Sen. Bossie, Jacobson, Saggiotes.

CACR 13, relating to legislative districts. Providing that a town, ward, or place may by referendum request that the legislature divide it into two or more representative or senatorial districts.

Sen. Rock moved that the Senate nonconcur and to set up a committee of conference.

Adopted.

The Chair appointed Sen. Rock, Smith and Downing.

### HOUSE REQUESTS CONCURRENCE

Two-thirds of the Joint Rules Committee having approved its introduction, the House of Representatives has passed a joint resolution with the following title, in the passage of which it asks the concurrence of the honorable Senate.

#### First and Second Reading and Referral

**HJR 7**, relative to state agency expenditures for fiscal year 1978. To Finance.

Sen. Bossie in the Chair.

Sen. Rock moved to take HB 867 from the table.

Adopted.

HB 867, requiring telephone companies to list the names of both husbands and wives in their directories.

Sen. ROCK: First, as the members of the Senate know, the members of the Legislative Utilities Council is empowered by statute to act on matters that have to do with effectiveness of rates. It is very possible that the passage of this bill would have an effect on the rates, charged by the telephone company, with the listings of husbands and wives separately. Now frankly I have no objection to the concept of it. My concern is with how is it going to be put into effect and who is really going to pay for the costs of this listing. So I would hope that the Senate would at this time approve the motion to send it to the Legislative Utilities Council and I can assure that is a hard-working council and it will have study, and it will come back with a recommendation from the council.

Sen. BRADLEY: You talk about listing them separately. The bill talks about listing them all in the same line. Is there an amendment change or something?

Sen. ROCK: Well I am not sure that they would be on the same line.

Sen. BRADLEY: But it is not two different entries. It would be the surname and then the couple's first names.

Sen. ROCK: As I understand the issue and I defer to Senator Brown if I am incorrect, there was a possibility that this could be done for a certain period of time, a limited period of time at no charge and beyond that point there would be a charge. Then there was another amendment considered that there would be no charge forever. I guess that what I am concerned about Senator Bradley is that somewhere somebody has to believe that there is no free lunch. If it is an extra job then somebody has to pay to have the extra job done and I want to be sure that if the extra job is done it is paid for by those who want the job done and not by those who have no concern with the issue and I would like the council to do some good research on it and come back and see how it is done in other states, how it is handled, who pays, what the cost and that's why I have made the motion.

Sen. ROCK: But doesn't it boil down to an either or thing? Either it is something which is a legitimate expense



of the company which gets passed on or it is a special assessment to the people who want it.

Sen. BRADLEY: If you say so.

Sen. ROCK: Well I don't know. I am asking you.

Sen. BRADLEY: I don't know.

Sen. HANCOCK: Senator Foley, in testimony on this bill was the telephone company in agreement with the concept?

Sen. FOLEY: Yes. The telephone company was in agreement with the concept and in fact at the present time they have allowed a three month period in order for this to be done free-of-charge for everyone. That would be a one-line affair with one name John/Irene or Irene/John and the last name. They put this in on all the telephone bills. They have just been received and the time on here that is allowed is August 11th which is just about 2 months not 3 by the time you got this in the mail. My problem is that if it can be done for nothing for three months I see no reason why it can't be done permanently. Anytime anybody needs a change and I brought up the case if you are married and your husband dies, and you call up the telephone company and say please remove one name it is a charge of \$7.50 if the name is removed. It isn't as though we are telephone book come out every month, we are still going to have one telephone book coming out in August or September or whenever the area book comes out. They are still going to do one book.

Sen. HANCOCK: Did the telephone company give any indication that it would be an exorbitant charge or a hardship on them?

Sen. FOLEY: They didn't say how much it was going to cost them to do this but they said any change after this that you would want would be \$7.50.

Sen. LAMONTAGNE: Senator why should we have this matter into law?

Sen. FOLEY: In the first place it is our business as well as their business and we make laws concerning the telephone company and the public utilities and the public service on a lot of things. Why can't we say on a lot of things that they do it is none of our business? They are working for us really and if we feel that there is something that they can do for us they should. Many other states are doing it and free. I see no reason why we can't do it. We pay higher prices for intrastate calls now.

Sen. LAMONTAGNE: Did I hear correctly that some of the subscribers are going to have to pay for having their name removed or put on?

Sen. FOLEY: I said once a name is on and there is a change in your listing and you want it changed it will cost \$7.50 to change it.

Sen. LAMONTAGNE: They can leave their names as they are if they also wish, that this law won't force them to change it?

Sen. FOLEY: Yes. If you like the way your name is in the Berlin book, you leave it that way.

Sen. SANBORN: Senator Foley do I understand that there such a thing as a free lunch, that this isn't, nobody is going to have to pay anything anywhere to have this done from now until August 11?

Sen. FOLEY: That is right. If you read your little gizmo that came in your bill this month and you want to take advantage of it that is fine until August 11, after that there will be a charge of \$7.50 to change it.

Sen. TROWBRIDGE: I think maybe I can shed some light on this. I once had my magazine printed by a printer down in Tennessee who did all the telephone books for the southern section. And to see what they had to do to typeset it just to get in the one name and the changes that come up before printers, is a monumental task. It wasn't till computers came that they got it right. But then to add lots of names on is going to be a tremendous burden. But when Senator Foley comes around and says they decided to do that free but now from here on out we will pay \$7.50 for a charge, I would like to note that I shipped 12 issues of a magazine, change their name and take care of all of their complaints for \$7.00 per year. That \$7.00 charge is extraordinarily high on the other end. I have a feeling that they are absorbing this in order to get the right to charge you \$7.50 every time you change your middle initial or are going to have the thing moved around in your listing. I think that Senator Rock may be on to the right thing that we are being given something—in order that, let us say that there are 500,000 listings x 7.50 and almost everybody changes something and they can change your number without your asking for it, there may be \$3,000,000 in revenue available to the telephone company so I think that we really ought to study this one very hard. Just because it conflicts.

Sen. BRADLEY: But Senator if we pass the bill then the telephone company can't get us with the \$7.50 because the bill says they have to do it without charge.

Sen. TROWBRIDGE: No. What they are saying is that they will put it on without charge till August. Thereafter if you want to make any change in your listing, that is another part of the tariff. It has nothing to do with the tariff here on the changes. It has nothing to do with whether it is your wife's name, the company name it is any change in your listing. Up until now if you got your thing in on time it goes for free. So the two are not linked.

Sen. BRADLEY: As I understand it the telephone company has unilaterally declared this policy. This is not by way of legislative direction. So if we pass this bill which says that they have to do this for free, this bill isn't going to be their authority for tacking on the \$7.50. In fact I would think that it would prohibit them from doing it but maybe not. Would you agree with that?

Sen. TROWBRIDGE: I would absolutely agree with that, they will say we are going to put that on for free only maybe 10% of the people are going to get around to doing it in time. Thereafter, they catch on and they find that Steve Smith's wife's name is in there and why can't I? Well! Send us \$7.50 and we'll put it on. I think it would be highly desirable to have the wife's name on it. But I must say I would have to see how you balance the cost of the \$7.50 charge for any change whether it is related to a wife's name or not to this bill.

Sen. BRADLEY: Again, the passage of this bill wouldn't prevent Senator Rock's commission from looking into that question.

Sen. TROWBRIDGE: No but at that time this is sort of like Blue Cross-Blue Shield. We put on the thing saying we shall now provide mental health coverage. Right? But they brought everything out of the woodwork for that rate increase. So they will say now we have been mandated by the legislature at no cost but we now have to have something to cover the cost of doing it. I can say that the cost is considerable and they'll prove to Wayland or the PUC that they have all these costs here so we are not going to put it on the charge for putting the wife's name in we are going to put it over here under general service rate thing. If you call for directory assistance to get a number, right? They want

to charge for anybody who is calling to get a number. That is their way. And everytime that someone writes them and says can you check my bill for me someone has to do that and somebody has to do that. I just see the thing as being related and we have to make sure that we know what we are doing.

Sen. BROWN: I rise in support of the motion to send this bill to the consumer's council. As you heard this afternoon there has been a great amount of confusion about this bill. We had the same amount of confusion about this bill in committee. Is it a one time cost, is the house going to accept the rate base in the subscriber's telephone bill? None of these were answered very clearly. I don't think we can pass a bill not knowing these answers. I think the consumer's council can find these answers.

Sen. FENNELLY: Mr. President I rise in opposition to the pending motion. I think we don't have a handle on this thing in respect to the overall picture. It seems that every time a bill pertaining to the utilities, telephone, public service, we say to ourselves well what did public service have to say about this, what did the telephone company have to say—we shouldn't even be worried about that. We created those agencies and we can limit their powers. Now everytime a bill comes in you have to beat off the lobbyists to get through here. And there will come a time when there will be a bill to eliminate all these public service lobbyists, public service, telephone and everything else. It just makes me mad Mr. President to think that a bill—why do these utility companies, what do they have to say about it. We do want their input but when it starts to overshadow a good bill or maybe a bad bill for that matter, I think that the time has come and for that reason I am against the pending motion.

Sen. Rock moved that HB 867 be referred to the Legislative Utilities Consumer Council for interim study.

Sen. Lamontagne moved the previous question.

Adopted.

Adopted. (Sen. Foley, Fennelly, Bossie, Bradley, Hancock voted in opposition.)

Sen. Bradley moved that **SB 6**, providing for a power of attorney which survives disability or incompetence of the principal, be recalled from the governor's office.



Sen. BRADLEY: There is a problem with SB 6 that has been pointed out to me by the governor's council. It is clearly inadvertent on the part of the people who put the amendment on in the house and we would like to get the bill back for that purpose. The bill of which I was the sponsor of, which created a so-called durable power of attorney which would survive mental disability.

Sen. ROCK: Senator do you know which body had possession of the bill last?

Sen. BRADLEY: I was afraid you were going to ask me that question. One way I can answer that question is that we both had it together when it was enrolled. There is a procedural problem with the bill as well as substantive problem. The bill as amended in the house, should have come to the senate for concurrence. In which case if it had gone properly we would have been the last house to have it for the substantive stuff. It didn't come us it went directly to the governor's office so it is invalidly or improperly and the house had it last. I believe that I am entitled to recall, because the house should not be able to prevent us from recalling a bill by improperly keeping it from us. I believe under the correct view, I wish you hadn't asked that question, I believe under the correct view on the bill, that it is the senate that is entitled to do the recall. Now the house isn't here to recall it and today is the last day, which is another reason why the motion.

Sen. ROCK: Inquiry for the chair. Mr. President, am I not correct that the recall from the governor procedure must be initiated by that house which had possession of the bill at the time that it passed?

The CHAIR: The answer would be yes.

Sen. ROCK: Could the chair enlighten me as to how such a horrendous and almost unbelievable mistake could happen. That an amended bill in the other body was not sent back to this body for either concurrence or nonconcurrence. I have never heard of such a thing.

Sen. JACOBSON: The fact of the matter is that an error has been made. The governor is in the position now of having to either sign the bill or veto the bill without it having properly proceeded. So the governor has asked to have the bill returned. There is a dark question as to what is the issue because as you have said, it is a unique thing, the house amended the bill and sent it to the governor without

sending it over in the proper procedure according to joint rules. I am not a lawyer but I don't think you can place on the governor the responsibility of vetoing or passing the bill when in fact improper action had preceeded it and so the only resolution that is available to us at the present moment is to recall it and very frankly, we are out in the shadows whether or not it is proper but if we don't do that we have a more complicated situation. So what we are doing now is preceeding in the less complicated situation as we view it.

Sen. BRADLEY: Senator am I correct that this rule that we have about the last house having possession, that that rule is neither in the house, senate rule or the joint rule.

Sen. JACOBSON: No it is not it is unprecedented.

Sen. BRADLEY: Would you agree with me that it is not even a masons.

Sen. JACOBSON: No it is not we are following new ground.

Sen. BRADLEY: No I mean this rule, this precedence that we follow is not even something that is laid down in masons as being a requirement.

Sen. JACOBSON: I am not absolutely sure of that, I would have to check that, but many of the precedents do not come from masons, masons is merely a compilation, and they come from Cannon's precedents which is a 10 volume and I would have to check on the precedents.

Sen. ROCK: I have no qualms with what Senator Bradley is trying to do in the correction of a matter of legislative importance and I imagine I am going to support this motion from the shadows, as the President has referred to it, but what concerns me is a two-fold issue. The first issue that concerns me, is that I can remember at the very dark of night in this Senate two years ago, we made an attempt to recall from the governor a bill and we went home thinking we had recalled the bill, taken our action and were promptly told by the House the next day that we couldn't recall the bill because we didn't have possession of it last. So there is some precedent and I don't know where it lies but it sure shocked a lot of Senators when we thought we had corrected something and were flaunted in our actions by the Speaker who refused to let those actions lie. Now the second thing that bothers me is that they have more aides and assistance and runners and people on the other side of that wall than Carter has liver pills. And yet we are told

that they didn't realize that an amended bill had to come back to this body for concurrence or nonconcurrence, and somebody made a mistake? I don't think that is a mistake I think that is an affront. However it is typical of the kind of reaction that the house has been giving the senate this year, starting with the handling of our bills in legislative services and many other matters including representation in important committees. We seem to be the junior partner in the law firm and I don't like it. And I certainly don't like the handling of legislation, an important senate bill, amended in the house and not sent back to this body and I think the person who made that mistake should be made to pay for it severely.

Sen. ROCK: Assuming that I agree with all that you say, don't you think it is still a good idea for us to recall the bill?

Sen. BRADLEY: When that vote comes I will probably support it, but I want the record to show my ire at the handling of this matter.

Sen. JACOBSON: I was interested in your declamation but doesn't that really follow Parkinson's law?

Sen. BRADLEY: No I think that is Monier's law, if anything can go wrong it will go wrong.

Adopted.

Sen. Jacobson moved that HB 98, relative to an agency's readoption of edited rules and relative to notice requirements in the rule adoption procedure, be recalled from the governor's office.

Sen. JACOBSON: The process of this bill has no dark places. The governor is concerned about this bill that it does not provide for some way of monitoring editorial changes in the rules and procedures of agencies. This is what the bill deals with and he feels sufficiently concerned about it that he wants the bill recalled, and if we act on the recall to send it back to the committee which is executive parks and municipal county government, to review his objection which is very specifically stated, that there is no process of approval of editorial changes in the rules and procedures of agencies. He is suggesting that the President of the Senate and the Speaker of the House do give that ap-

proval. For that reason I have agreed to ask for the recall and if the recall is adopted that it would be returned to the committee and they review the proposal as offered by the governor and come back again to the Senate floor.

Sen. MONIER: I have no objection to this recall and I am aware of the circumstances of it. And as soon as it is acted upon we will act to bring it back to the Senate floor.

Sen. HANCOCK: What is HB 98?

Sen. JACOBSON: This bill has to do with editing changes in the rules and procedures of state agencies.

Sen. HANCOCK: And HB 98 has passed both the House and the Senate.

Sen. JACOBSON: HB 98 has passed both the house and the senate.

Sen. HANCOCK: And we are recalling it simply because the governor doesn't like it?

Sen. JACOBSON: He has asked us to recall it in order that we may consider an amendment to it.

Sen. HANCOCK: I am new in the Senate but does that happen very often?

Sen. JACOBSON: That happened on several occasions. To cite one example, it happened on the medical bill having to do with places at Dartmouth medical school for New Hampshire residents as one example. I could cite other examples too.

Sen. HANCOCK: Isn't it possible that this bill could come back to the committee and never be reported out again?

Sen. JACOBSON: I presume that is a possibility but I don't think that is a problem.

Sen. HANCOCK: But it is a possibility?

Sen. JACOBSON: All things are possible.

Sen. HANCOCK: I find it strange.

Adopted.

## SUSPENSION OF RULES

Sen. Jacobson moved to suspend the rules of the Senate so far as to reconsider our action whereby we passed HB 98.

Adopted.



## SUSPENSION OF RULES

Sen. Jacobson moved to suspend the rules of the Senate so far as to allow HB 98 be placed on second reading at the present time.

Adopted.

Sen. Jacobson moved that HB 98 be referred to Executive Departments.

Adopted. (Sen. Hancock recorded in opposition.)

## SUSPENSION OF RULES

Sen. Jacobson moved that the rules of Senate be so far suspended as allow HJR 7 be acted on at the present time without prior notice of hearing or proper notice in the journal.

Adopted.

HJR 7, relative to state agency expenditures for fiscal year 1978.

Sen. JACOBSON: On April 26th the attorney general sent a letter to the Governor, to the Speaker and to the President of the Senate raising the issue of RSA 919. RSA 919 deals with the question that no agency head or institutional head can spend money which are not appropriated and if they do they are subject to removal from office and liability for any of the expenditures which they may make in an unauthorized fashion. The present budget which ends on June 30th, does not have a provision for paying salaries, current expenses, travel or debt obligations beyond the date of June 30th. Which means in fact that salaries, wages, current expenses, travel expenses, and certain debt obligations cannot be paid except in fiscal 1978. Though they would be incurred in fiscal 1977. Now we have not appropriated any money to date for fiscal 1977. The problem lies in the most critical example, is that our state employees if RSA 919 is carried out, that our state employees cannot work beyond tomorrow because of the delayed payment schedule. In order that they may continue to work and the basic functions of the state continue we need to pass HJR 7. What this does is two basic things, it allows department heads and institutional heads to in effect spend money be-

tween now and June 30th though that spending is going to be paid in fiscal 1978. It also continues to provide that if any problems arise with regard to deficits under RSA 913c and that all expenditures would be subject to the modifications with respect to RSA 913c which has to do with calling the advisory budget control committee into session at the appropriate time as it was earlier on. The entire resolution ends on July 1. It is a simple matter but it is a matter that has to be taken care of if our state government is to proceed and therefore I ask suspension of the rules.

Sen. ROCK: Could you turn to the last page of the resolution. Is there a portion of the resolution that establishes an on-going committee to look into this matter so that it doesn't happen again?

Sen. JACOBSON: There is none. That was excised by amendment in the house.

Sen. ROCK: Thank you. Did you know as originally concocted that it gave a majority of weight to House members and put the Senate in an inferior position and I was going to object to that if it was still on.

Sen. JACOBSON: Senator that portion that has been excised relates to the advisory budget control committee and there is a majority of House members on that.

Sen. ROCK: Are you aware Senator that there was a new committee that was going to be established beyond the ABC and that also consisted of a higher number of House members than Senators?

Sen. JACOBSON: Well that committee had nothing to do per se with the action, that was a committee that was established to review this whole problem and report back to the legislature, and that is common practice to have more House members than Senate members on. It would be like an interim study committee.

Sen. ROCK: Is that part of the resolution still intact?

Sen. JACOBSON: It is not.

Adopted. Ordered to third reading.

## ANNOUNCEMENTS

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to

third reading be read third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn; we adjourn until Friday, June 3 at 11:00 a.m.

Adopted.

## LATE SESSION

### Third Reading and Final Passage

HB 950, relative to defining service territories for electric utilities.

HB 741, establishing a study committee to determine financing methods and requirements for decommissioning of nuclear power facilities.

HB 16, authorizing out-of-state municipalities to participate in district fire mutual aid systems.

HB 415, relative to penalties if found intoxicated while hunting and relative to implied consent.

HB 750, permitting the appointment of an assistant county attorney for the county of Rockingham.

HB 1055, prohibiting the Rockingham county attorney from engaging in the private practice of law.

HB 605, to provide a special liquor and beverage license for race tracks.

HB 804, conforming the New Hampshire clean act to the requirements of the federal Environmental Protection Agency.

HB 15, exempting the tax on that portion of the dividend that constitutes a return of capital.

HB 301, relative to timber yield taxes and the bond and debt retirement tax.

HB 437, relative to the payment of assistants and employees of the state racing commission.

HB 627, prohibiting certain advertising and expenditures by electric and gas utilities.

HB 880, relative to telephone calls to emergency services in towns.

HJR 7, relative to state agency expenditures for fiscal year 1978.

Adopted.

Sen. Rock moved reconsideration on HB 415.  
Motion failed.

Sen. Foley moved reconsideration on HB 880.  
Motion failed.

Sen. Saggiotes moved to adjourn at 5:05 p.m.  
Adopted.

## *Friday, June 3*

The Senate met at 11:00 a.m.

A quorum was present.

The prayer was offered by Senator Jacobson.

Our Father, help us to live each day in the guidance of Thy love, so that we may see with Thine eyes rather than our own limited vision.

Amen

Sen. Blaisdell led the Pledge of Allegiance.

### ENROLLED BILLS AMENDMENTS

HB 613, relative to investments by savings banks in unsecured loans.

Sen. Saggiotes for the committee.

#### Enrolled Amendment to HB 613

Amend section 3 of the bill by striking out lines 2 and 3 and inserting in place thereof the following:

graph VII the following new paragraph:

VIII. In loans pursuant to an open-end credit plan, based on the



Sen. SAGGIOTES: The amendment to this bill renumbers the paragraph as a result of the prior insertion of a paragraph by HB 322.

Amendment adopted.

HB 366, requiring results of second reading votes be included as part of questions proposing constitutional amendments.

Sen. Saggiotes for the committee.

#### Enrolled Amendment to HB 366

Amend section 1 of the bill by striking out line 1 and inserting in place thereof the following:

1 Second Reading Vote. Amend RSA 59:12 as amended by inserting in line 4 after the

Sen. SAGGIOTES: Thank you Mr. President. The amendment adds the words as amended to the amending clause of section 1.

Amendment adopted.

HB 1031, to allow local units of government to enter inter-local agreements for the performance of any legal municipal function.

Sen. Saggiotes for the committee.

#### Enrolled Amendment to HB 1031

Amend RSA 53-A:3, III as inserted by section 1 of the bill by striking out line 3 and inserting in place thereof the following:

in addition to items enumerated in paragraphs II, contain the following:

Sen. SAGGIOTES: Mr. President, this amendment cor-

rects an inaccurate internal reference to a paragraph in the bill.

Amendment adopted.

Sen. Bradley served notice of reconsideration of HB 627.

## COMMITTEE REPORTS

HB 217, relative to tuition for foster children. Ought to pass with amendment. Sen. Sanborn for the committee.

### Amendment to HB 217

Amend the title of the bill by striking out the same and inserting in place thereof the following:

#### AN ACT

relative to tuition for foster children and relative to providing liability insurance for individuals providing foster care.

Amend RSA 198:24, II as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

II. If the sums appropriated to the foster children tuition fund established by 1975, 505:1.06, 03, 01, 21 is not totally expended for the purpose of paragraph I, then any amount remaining unexpended shall be divided equally between the following 2 categories: foster children placed in a program or school for the handicapped; and foster children placed in a group home or non-profit institution which averages 6 or more foster children annually. Each category shall be entitled to receive an equal share of this division and within each category, the amount so appropriated shall be distributed on a per capita basis based upon the number of children within the category.

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 Director's Duties Expanded. Amend RSA 161:4 by inserting after paragraph II the following new paragraph:

III. Foster Parents Insurance. The director of the division

of welfare, department of health and welfare, or his designee is hereby authorized, after consultation with the commissioner of insurance, to enter into a contract with an insurance company to purchase personal liability coverage for individuals providing foster care for children.

5 Effective Date. This act shall take effect 60 days after its passage.

Sen. SANBORN: The amendment you will find on page 8 and 9 of today's calendar. Basically the biggest change in the amendment is after 4, Director's duties expanded. Here, in discussion with the Department of Education and others it was found that we have a certain amount of problems relative to the placing of foster children in foster homes. Because there is no insurance coverage for anything that might happen. All this amendment does is that the director of the division of health, or its designee is hereby authorized after consultation with the commissioner of insurance to provide liability insurance for any of the homes that foster children might be placed. We feel that this will open up more homes to taking foster children since the insurance is there and the parents realize that they are no longer responsible for something that that child might do that might cause a liability against the foster parent. We highly recommend the passage of the amendment. The bill itself is very simple. As it is now, on foster children there is a certain amount of money set aside to pay that amount of money that is required over and above the state average where a foster child may be in a school. This is especially notable where some foster children are placed in a foster home because of the availability of a school that that child may need. For instance, we have the Great Bay school down at the Seacoast area for certain types of children that have a disability. There are children that need this type of an education and the availability of school so they are placed in a home near their school so they may attend this school. This fund reimburses the school district so that they will not find it as a financial burden on the school district because the state has put that foster child into a home in that location. Above and beyond that there is a certain amount that may be left over each year in the fund and basically, what this continues to do, if there is a certain amount left over then this is divided equally amongst the foster homes within the area to go further towards the area of

foster children's education. The Department of Education appeared very strongly in favor of this bill and the amendment. We hope that it will pass.

Amendment adopted. Ordered to third reading.

HB 600, relative to the importation of dogs and cats into the state and the sale of same. Ought to pass as amended. Sen. Hancock for the committee.

#### Amendment to HB 600

Amend RSA 443-A:9, I as inserted by section 2 of the bill by striking out said paragraph and inserting in place thereof the following:

I. No dog shall be brought or shipped into the state for resale, without first being innoculated against distemper, hepatitis and leptospiros, and unless accompanied by an official health certificate issued by a licensed veterinarian. No dog 3 months of age or more shall be shipped into the state for resale without being protected against rabies. No cat shall be brought or shipped into the state for resale, without first being protected against feline pan/leukopenia and feline respiratory infections. The official health certificate dated 7 to 10 days before importation shall be in triplicate, one copy of which shall be sent to the state veterinarian, one copy of which shall be kept by party receiving said dog or cat for a period of 3 years and one copy of which shall be given to the purchaser upon resale as provided in paragraph III.

Sen. HANCOCK: Mr. President, members of the senate I think we are going to have quite a few dog and cat bills today. I think that all of us who are concerned about animals are worried that the overpopulation, disease, the running loose and the disconcerting cruelty to animals has proliferated. I think we should commend the house committee, the committee that was set up by the house in late '75 of the municipal county government and if might take a minute, this is sort of a preface to the other bills, I would like to indicate the people who have served on that committee and who gave so much time. There was a representative from the fish and game department, Jim Jones who has since resigned and



gone to another job, Dr. James Paine, who for many years has been active in veterinary associations and indeed on our state board. Dr. Dearborn, who is state veterinarian with the Department of Agriculture, three private , four private citizens, S. B. Adler, Janice Mullen of Dover, Richard Stewart of Goffstown and Doris Phillips of New London. Representative from the SPCA of Concord, Patricia Johnson, Howard Zay, who represented the town clerk's association and who comes from Plainfield, Representative Fitz Sabbow who runs a humane shelter as you know in Laconia, Jody Farrier who runs an SPCA installation in Stratham, Robert Reynolds who is a dog officer from Portsmouth who has done an outstanding job through the years, Representative Dave Packard who represents the town clerk's association and James Dionne of Manchester, the humane society officer. I think that these people are deserving of commendation for the very lengthy, comprehensive and very fine job which they have done. The amendment on HB 600 clears up what dogs have and what cats have. It merely says that dogs shall be brought or shipped into the state for resale without having been innoculated against distemper, hepatitis and leptospiros and cats shall not be shipped in unless they are protected against feline pan/leukopenia and feline respiratory infections. The bill itself is a consumer rights bill in the sense that it protects not only the animal but it protects whoever is buying the animal. It increases the licensing fee for pet shops from \$10 annually to \$50. This is a charge which is currently recognized and used in all of the New England states. The bill also requires that cats and dogs which are imported into the state shall be accompanied by an official health certificate so that there will be assurance that when a person buys the animals that he or she is buying an animal is free of disease. The certificate is displayed on the cage, it is certified by a veterinarian and it does give the assurance which most buyers need. I think it is a bill deserving of your support and I hope you do support the committee recommendation of ought to pass.

Sen. HEALY: Mr. Chairman, I wish to state that I am strongly in support of this measure and would like to speak a few words on it. Last week we have had several hearings on dog bills and it has been brought out that in the state of New Hampshire, like every other state, there is an overpopulation of canines, not only dogs but cats are getting very much overpopulated. We are indeed short of canine officers and

they are having their problems with the dog situation. This bill here, I am sure, aims at these hit and run groups that are coming in to shopping centers, and some times coming in with these circuses and they are selling these attractive little dogs to people and we don't know the condition or background that these dogs are in and they are getting good prices for these dogs. I think it is a good measure and I hope that we support it strongly.

Amendment adopted.

Sen. Rock moved that HB 600 be referred to the committee on Executive Departments for Interim Study.

Sen. ROCK: I would have to agree that there were some distinguished persons who served on the committee that the Senator from the fifteenth district referred to. I think that perhaps this legislation is heading in the right direction that the Senator from the sixteenth district has referred to. But the bill as it is written I must question that if such a distinguished panel worked on it, I call your attention to page 1916 of the house record and you have almost two full pages of house amendments to a bill that had all that study, there certainly must have been some further questions that were asked. I call your attention to 1917 of the house record, section 5 and 6 of the bill. All dogs and cats imported for resale shall be held in isolation by the importer for a period of five days. What is isolation? If a person has 60 kennels and they are separately constructed and he has 60 pups, does he have to build 60 more kennels to put the new 60 pups in. Is it true that the breeders of many of these dogs, are required by the United States Department of Agriculture to hold them in isolation for five days before they are even shipped into the state. I am told that it is. I also wonder if 60 different health certificates pasted onto 60 different pages will stay there very long if the people washing down the cages every week had to wash over the health certificates. I think that we have to look to states like Maryland and Illinois that have done what I think the people who put this together tried to do, and that is to make a bill that is thoroughly workable and applies to everybody in the state. As this bill is written it seems to be almost written just against pet stores but it does little or nothing the way I read the bill, to take care of the problems

with the fellow down the street who is breeding dogs and is not taking care of things the way he should be. I think that if such a lengthy and comprehensive study is done it certainly left some questions in my mind, let me read to you from section 1 of the bill. "No dog or cat shall be brought or shipped into the state for resale without first being protected against distemper, hepatitis, leptospirosis, etc." It goes on to say, "a health certificate issued by a licensed veterinarian will then be issued, one copy in triplicate, one copy sent to the state veterinarian, one copy kept by the party receiving the dog or cat for three years, and one puppy given to the purchaser upon resale as provided in paragraph 3. I wonder if we really realize what kind of paperwork we are generating, why the sole purchaser is going to be put through this. There is a vaccination shot that is referred to in here that isn't given until the last series, long after the pup is sold. I think that while HB 600 does do what Senator Hancock is leaning towards and what Senator Healy supports, I don't think it quite gets there. Some of the wording is very difficult and to keep a pup in isolation for five days when twenty-four or forty-eight hours would certainly be sufficient, are some of the things that I would like to see studied further. I would recommend that this bill be sent to interim study in its present form. It does not accomplish what it set out to do and it is highly restrictive to one section but not to other parts of the people who have and own dogs. I love dogs, many people in the Senate love dogs, Tiger, Senator Poulsen's dog spoke to me about this bill and he said to me it needs further study.

Sen. PRESTON: I speak in opposition to the pending motion of Senator Rock. If anything has been studied the dog bills have been studied and the people have devoted more time to perhaps this subject than to others. There have been other amendments put into this bill than what were read by Senator Rock and the separation for example of 48 hours from other animals on premise, they are not talking isolation chambers or whatever, the purpose of the bill is to require health certificates so that we can get healthy dogs in the state. It is an increase in the license fees. The purpose is to have health animals that won't spread diseases and we can bring up all kinds of problems and so forth but there is no sense in studying this subject any further. They appear to make it a good bill, representatives have looked at it who

represent the consumer, veterinarians have been involved, the human society diagnostic clinic people and you have studied this to death, you may as well kill the bill or pass it. I would strongly recommend passage of this bill.

Sen. MONIER: I am the chairman of the committee, I don't have any opposition to the motion, I would remind the Senate of one thing, it has been studied a lot and yet if I may, while we were hearing the bill the state veterinarian came in and had to make three changes in it. One of them being that the people who have been studying it the way the bill was put together had an inoculation on a cat that doesn't exist. So I think the Senate should be aware that although it has been studied and people have been saying this, it is rather obvious that the amendments that came over from the house and the fact that we had to make a last minute amendment on the basis of the state veterinarian that the bill certainly wasn't in final form when we got it and I therefore would be very willing to support it although I don't know why.

Sen. FOLEY: Senator Hancock, is it your opinion that the bill is in pretty final form right now.

Sen. HANCOCK: I admit that there were a number of amendments made to the bill. In a subject of this sort I think that you find a great deal of interest and concern and therefore a great many recommendations were made. I do think that the committee worked assiduously at their job, they held hearings, and they were receptive to amendments, I do think that this is a bill which would be beneficial to the people of the state of New Hampshire and particularly to the animals. I urge your defeat of the motion and the support of the committee report.

Sen. POULSEN: I have voted for this bill to be ought to pass in committee in all good faith but after hearing the testimony this morning I am willing to vote that it be studied. I don't think under the circumstances we know all we should know about the subject matter.

Division vote: 9 Senators votes yea. 9 Senators voted nay.  
Motion failed.

Sen. Foley, Healy, Downing, Hancock, Preston, Fennelly voted in opposition to interim study.

Sen. Smith moved that HB 600 be recommitted to Executive Department.



Sen. SMITH: Mr. President I am no expert on cats or dogs; I am expert on other things sometimes but not cats and dogs. I am not sure what this bill does, I gather it has some problems. I would hope that it could be recommitted and those who are more expert than I maybe resolve some of the problems before the end of the session.

Sen. LAMONTAGNE: Is it possible for you to get Senator Poulsen's dog to help you out?

Sen. SMITH: Maybe Tiger could but I hope these dogs don't have one-inch mirrors on either side.

Adopted.

HB 537, relative to licensing pet shops and certain animal shelters. Ought to pass. Sen. Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the senate, this bill requires that animal shelters shall also be licensed as well as pet shops. The license fee ranges from \$10 to \$20 and this bill would make the Department of Agriculture responsible for the issuing of licenses for the necessary inspection to insure that there were clean and wholesome conditions where animals are housed and it excludes the breeders of dogs, veterinarians, owners and operators of horse-riding stables, auctioneers, breeders and keepers of farm livestock from this chapter. It was attested to by Representative Sabow whom I am sure you know is the executive director of the New Hampshire Humane Society, that indeed the humane shelters in New Hampshire are in need of inspection and he would like to see that a better job is done. That the humane shelters are better policed and he recommends and we all recommend from the committee, passage of HB 537.

Sen. KEENEY: Senator Hancock, I have the original version of the bill and I know that it was amended in the house, does the animal shelter mean also a town operated animal officer's temporary sheltering of animals that he picked up?

Sen. HANCOCK: I would think so. That point wasn't brought out but I would think that it would include, it says also a public pound for the housing of strays.

Sen. SANBORN: Senator, that was interesting. I noticed on here that it called for a \$20.00 fee, does that mean that the town pound has got to pay the state a \$20 fee?

Sen. HANCOCK: I would think that might be the case.

Sen. SANBORN: I can see a load of towns going out of the dog pound business.

Sen. HANCOCK: You know there is no such thing as a free lunch Senator.

Sen. KEENEY: Senator Hancock, was anything brought out in the testimony that the inspection in this bill would override the authority of the state health officers who now have local agencies, towns, and municipalities who take care of this?

Sen. HANCOCK: I would gather because of the scarcity of help, that there would be an arrangement worked out between the two in that case. There wasn't any question of whose authority exceeded, but the Department of Agriculture is responsible for the inspection. They can deputize however.

Sen. KEENEY: It would be expected that the Department of Agriculture would work with the Department of Public Health.

Sen. HANCOCK: Absolutely.

Adopted. Ordered to third reading.

HB 726, relative to local approval for the development of any public airport. Ought to pass. Sen. Preston for the committee.

Sen. PRESTON: This bill would give those communities who are going to be affected by the location of a regional airport the opportunity to vote upon the approval or disapproval of it being located within their community. This will conform with existing federal laws relating to the location of airports. I must say that the seacoast particularly has been the location for a proposed regional airport that has been opposed by three of the communities in which it would be located. There was an overwhelming vote in the house for this bill, 262 to 62 and to me it is a real, you are certainly following home rule if you are not going to push something like this down the throat of a committee; let them make their own determination.

Adopted. Ordered to third reading.

HB 572, relative to the custody monies raised for or received by various agencies of municipal government and the timely deposit of funds paid to the town study. Interim study by the Senate EDA Committee. Sen. Poulsen for the committee.

Sen. POULSEN: This bill has to do with monies in a town that ordinarily is handled by the town treasurer and in some towns some of the monies are handled by other agencies such as a road agent. There was testimony against this bill. The bill seems only to be particularly aimed at one town but the wording of the bill doesn't seem too appropriate. It leaves untouched municipal departments like water and light and people like that who ordinarily pay their own bills, their own payrolls, whose money doesn't go through the town treasurer.

Sen. SMITH: I rise in support of the motion for many of the reasons that Senator Poulsen indicated. One of the things that I hope that the committee will look at closely and carefully in interim study is the longer they talk of water departments, sewer departments, also having to come under the town treasurer. What my question is does this include precincts which are separate legal entities and I hope that the committee will make some determination of that and hope at least they will exclude if not forget the bill?

Adopted.

HB 1149, relative to the preparation of a town budget under municipal budgets for counties, school districts, and village districts. Ought to pass. Sen. Preston for the committee.

Sen. PRESTON: This bill restates the present preparation of the budget law. It sets up orderly procedures and it asks that even self-sustaining departments, water and sewerage departments in the town report on a gross basis to the budget committee and to the selectmen.

Adopted. Ordered to third reading.

HB 1153, relative to reporting audit findings in summary form. Ought to pass. Sen. Preston for the committee.

Sen. PRESTON: Mr. President, this requires all the councilmen of a municipality have to be audited. Some private accountants had not actually audited the smaller departments within a community and they did cite the case of a trustee where there are some funds that were missing, had been misappropriated and if an audit had been done on that particular department along with the rest of the town it would have been discovered earlier.

Adopted. Ordered to third reading.

HB 644, relative to the definition of subdivision under the planning laws. Ought to pass. Sen. Poulsen for the committee.

Sen. POULSEN: This bill adds the provisions rent, lease and condominium conveyance to the subdivision description under the planning laws and the purpose of it is to take care of a problem where someone buys an old cabin facility and links it together into a condominium type thing and still doesn't come under subdivision because it is a one-unit thing. This considers the very fact that there are parallel, side-by-side units as condominium with separate land as they do come under the subdivision and have to be approved to take care of the sewerage and things like that. It gives the towns a little better handle on this type of dividing of land and property.

Adopted. Ordered to third reading.

HB 914, providing for a voter petition to amend subdivision regulations in a town. Inexpedient to legislate. Sen. Hancock for the committee.

Sen. HANCOCK: Under the present statutes a planning board is given land subdivision control authority by the legislative body and it then drafts its regulations, holds public hearings thereon and adopts following the public hearings. It amends them the same way. We feel that this is a practice which has been working well and would like to continue it. HB 914 would change that practice and we feel that the practice should not be changed and we therefore we recommend this bill as inexpedient to legislate.

Sen. BOSSIE: Mr. President I rise in support of the com-



mittee report and I think that Senator Hancock is very accurate when she says that the way the system is operating now is fine and that to alter it in this manner in as the bill prepared by representative Bednar, it will just not be to the advantage of the towns and it will be used to increase the number of lawsuits and complexities with regards to this problem. Subdivision regulations are very important to a town; they have to be done properly and I think most planning boards are in a position to know more about it than the average citizen who might be rounded up by some dissident. I think this is a proper thing to do with this bill.

Sen. : Senator I disagree with what you just said. If I have a problem with a decision of the planning board in my community what recourse do I have?

Sen. BOSSIE: The law is very clear under RSA 36. You can either go to the board of adjustment in some cases and in other cases you go directly to the Superior Court. If you have a problem with it, it is not the subdivision regulations that you have a problem with, you have a problem with the decision of the board under those regulations. So if you want to change those regulations the best way for you is to get on the board or recommend that they amend their subdivision regulations. These are people who know stuff. They know planning frequently they are involved with it and they put in many hours of time into the process for people who just might be opposed to some of their decisions to act in a flagrant manner would not be in the best interests of a town necessarily. If the board is acting improperly then they should be booted out of office in those towns in which they are elected. They should be thrown out and the selectmen can be encroached upon to advise them to the problems. To dabble with this law would be a very serious error.

Sen. SAGGIOTES: I understand that Senator, but wouldn't this give a little more strength to home rule to allow the people to, if they wish to change some of the rules and regulations of the planning board to be able to do so at a town meeting under the democratic form of government whereby the majority will have its way over the minority.

Sen. BOSSIE: Well Senator if you believe that I feel very sorry, because under the present system the reason why you are here in Concord is the democratic system that you represent 30,000 constituents and you vote to represent them. If the whole town had to be in on every decision in the planning

board with regards to regulations under which they act it would be complete chaos, it would be like the house.

Sen. SAGGIOTES: Would you agree with me that in the majority of instances when an individual or a group of individuals have a grievance, generally appear either before the planning board or a zoning board if they happen to be lay person, appear with legal counsel?

Sen. BOSSIE: Quite often they would appear with legal counsel. I know as a lawyer I do a lot of this representing people before planning boards especially in the city of Manchester. I have never once had a runaround. I have had them deny my petitions, but that doesn't mean that I want to get them, that I somehow want to change the rules. I think in Manchester they are very sophisticated, in fact the city planner is the highest paid city employee and he should be because he is very bright. In the towns that I have worked with most of them are lay people. They don't have a professional team, but I think that they are very fair and every town that I have ever dealt with and I have dealt with most of the towns in Hillsborough county so I think Senator Hancock is right when she says this is not a necessary part of the government that we necessarily want to encroach upon.

Sen. SANBORN: You confused me a little bit in your explanation. People have the right to petition the planning board for changes in the zoning laws right now?

Sen. BOSSIE: You're talking about zoning laws and this is subdivision regulations which are part of the zoning laws but they are different. Zoning laws are one thing, subdivision regulations are the regulations under which zoning laws are enforced. Zoning laws are adopted by the town at their town meeting, subdivision regulations are adopted by the planning board after a public hearing.

Sen. SANBORN: I still believe that the people of the town have the right to petition for a change.

Sen. BOSSIE: Right. I'll tell you a subdivision regulation, what an example would be, side yard requirements. 8 feet, you can't build within 8 feet of your neighbor's land. You cannot put a driveway there, you cannot do other things, these are subdivision regulations. Say in your town of Deerfield, if you wanted to propose a change, you could petition, get all your neighbors together and say we petition so you will have 25 foot side yards and set back requirements. The planning board would look at that and say well you're wrong

or they could say gee, that might be a good idea, let's have a hearing on it and see if we will adopt this. That is a good procedure, democratically, you have lost nothing and I think the way it is operating now I think it is fine.

Sen. SANBORN: You say the town of Deerfield, we have it in the zoning laws now that no house shall be less than 75 feet apart, must be. I always thought you could petition to make these changes anyway.

Sen. BOSSIE: You can but it wouldn't go to the town meeting anyway.

Sen. SANBORN: I realize I am talking about town zoning but also on your regulations they can petition. You always have the right of petition, so our lawyers have always told us.

Sen. BOSSIE: Senator Hancock as you know is quite an expert in this field and she probably of anyone in the chambers, she is more knowledgeable than anyone. I pretend to know the legal aspects of it, I think I am correct that what you are talking about is the zoning part, side yard requirements, the things that normally are subdivision regulations and I would refer to her if you have any further questions.

Sen. HANCOCK: I think Senator Sanborn, the question that you brought up is a zoning question. The method of petition on that is in the zoning requirements. Subdivision regulation, it is the only instance when a planning board is given power and in most other cases a planning board have only the power of persuasion but when the town meeting gives the planning board the right to draw up regulations for the subdivision of land then it lies within their purview to do that and to amend. Now it may be thought as an arbitrary system and it may be, but it has worked extremely well for the last, particularly the last twenty years when we have had such development going on in the state.

Sen. SANBORN: Senator, I want you to understand the question. I am not opposing the recommendation of the committee to deep-six this because I firmly believe that it should be because there is part that I look in there in the analysis that is to me very stupid. It says that the planning board and I quote, "the planning board shall hold such hearings on the proposed amendment or amendments but shall submit the amendment or amendments to the voters as they are offered by the petitioners." This is stupid. I could go make up my own type of amendment completely out of con-

text with the laws and so forth and they would submit it to the voters by this bill in this form and that would be stupid, way out of the way.

Sen. HANCOCK: That is correct.

Sen. Saggiotes moved that the words "ought to pass" be substituted for the words "inexpedient to legislate."

Sen. SAGGIOTES: Mr. President, I might be mistaken but the way that I understand it is that at the present time, with zoning ordinances you can petition the zoning board for amendments before the town meeting for the people to act upon. With the planning rules and regulations you can only petition the planning board and then they make the decision themselves and there is no way for the town at a public meeting to override them. I think, getting back to the home rule concept, I think this is a good bill, I am sure that the house gave it serious consideration, particularly from the people who live in these smaller communities and I don't think that as Senator Sanborn says, that this portion that he referred to is stupid in the event that someone comes in with a proposal that is stupid, because I am sure that if it is brought before the voters of the community, that they would vote down such a stupid proposal. If they vote in favor of it then if that is what they want this is what they should have. I don't think that a 7 or 9 member board should prevent them from having whatever they like and I think that here again we are taking the democratic rights of the individual away from them, particularly in a smaller community.

Sen. SANBORN: Senator I want you to understand what I mean by stupid. The way that I read this and you correct me if I am wrong. If someone brings in this petition and it should have had a comma or a word change or something like that, the way I read this they are not even allowed to make those kinds of changes. They have to submit it to the voters as submitted to them. This is why I am saying it is stupid. Or do you understand it differently?

Sen. SAGGIOTES: In response to your question Senator, you are saying that there is a possibility that the proposed change may be improperly worded or written. Senator, we in the legislature and in the Senate quite often make errors ourselves with all the legal and technical help that we have and as a matter of fact this morning I presented three amend-



ments to the enrolled bills. So this is possible, naturally it is, it is going to happen and I am sure that the members of the planning board that suggest changes probably make errors themselves.

Sen. PRESTON: With all due respect to the Senator from the 8th district, I don't think that home rule is the argument in this bill, we already have home rule and hearings and within our committee, in Executive Departments, we have had so many bills come in that, I would hate to be appointed as a member of a planning board with the additional responsibility and regulations that we keep imposing on people; I know this is just a petition for a hearing but I think as Senator Bossie indicated, those people appointed locally, if they don't perform, if they are not responsive or don't act in a democratic manner then they can be removed but I think that we are inundating the communities with additional legislation and this is not necessary in my opinion.

Sen. ROCK: I appreciate what you are saying but could you tell me who was the original sponsor of the bill?

Sen. PRESTON: A representative by the name of Bednar of District 14.

Sen. SAGGIOTES: I am certainly not fighting Representative Bednar's battles, as a matter of fact he hasn't said a word to me about this, they are my own thoughts, I can agree partially with what you say Senator but in fact, in many of the towns that are under the municipal budget act in which the members of the budget committee are elected by the people, and the budget committee presents its budget at the annual town meeting, those very same people that elected them to bring in their budget proposals, very often overturn many of their recommendations. So what I am trying to say . . .

Sen. PRESTON: I agree with you Senator.

Sen. BRADLEY: Senator Saggiotes, as I understand this bill, what the real effect of it is going to be is that the planning board will have to defend its regulations if it doesn't like the proposed amendment before the voters in the same way that the planning board now has to defend the zoning laws which they may probably had drafted if they don't like the proposed amendment.

Sen. PRESTON: That's the way I see it, yes.

Sen. HANCOCK: Mr. President, members of the Senate, I think that if this bill were to pass you would have utter chaos

in your entire community planning situation. The planning board is there for the purpose of developing an orderly plan for the community and this is one of the most important tools it has. If a big subdivision came in you would have a difficulty in the petition mechanism if anyone were to employ that device and I think it would take away the responsibility of the planning board, it would make eunuchs out of them as far as subdivision procedures go and I would urge you to support the committee recommendation on this and defeat the motion.

Sen. BRADLEY: Senator why is it wrong to in effect, force the planning board to defend their subdivision regulations any more than its wrong now for them to stand up and defend the zoning clause that they have written?

Sen. HANCOCK: I think they expect to defend them.

Sen. BRADLEY: But in the case of the zoning law if they can't defend it, in other words, assuming that the amendment is something they have agreed to it's not the problem, it is when there is a proposed amendment that they don't like. Now in the case of the zoning law, such an amendment comes in, they have to stand up before the town meeting and defend the status quo and oppose the amendment. I assume they should be able to do if it is a defensible position. Now why doesn't that carry over to the planning board regulations?

Sen. HANCOCK: It is the only case as you know in which they are given this particular power. I think that in order to develop an orderly plan, you have to have this power. I think that they do hold public hearings on the regulations themselves, they do hold them on the amendments and I think you delegate the power to what we assume is a reasonable body of people in that they will take into consideration any changes, any amendments, any corrections or deletions that have to be made in those subdivision regulations. If you take this power away from them and put them into the position of being constantly under the petition I think you're going to find wholesale resignation of planning boards. I don't have any doubt of it in my mind at all. I think the system has worked effectively and we have had as you know tremendous growth in the southern part of the state where we have had to have planning boards responsibility in meeting these situations. We take that away from them I think we are going to have chaos.

Sen. BOSSIE: Mr. President, I rise the second time in favor of the bill. Killing the bill and in opposition to the motion of Senator Saggiotes, I don't want to belabor this, there has been a long debate on it and frankly it has been pretty dull. What it does, subdivision regulations just provide orderly process under which the zoning ordinances are carried out and to make sure that the plats are drawn properly, that there are proper traffic ingresses and egresses that it is esthetically attractive, the various little things that make up a development. As I say, I don't believe this bill will enhance any towns position when it comes to planning so for that reason we should not pass it but I don't think that Senator Saggiotes is correct when he says that the town meeting should have this ability to do things when actually they are not in a position to do it, it is merely a method by which the zoning ordinances can be carried on. So home rule has nothing to do with this, absolutely. So I urge you to defeat the motion of Senator Saggiotes.

Sen. MONIER: Senator Saggiotes, I apologize for not being here at the beginning but am I correct to say that you are a motion of ought to pass on the basis that this would allow a petition to allow the people to put something with respect to planning?

Sen. SAGGIOTES: As I understand the bill that is exactly what it does. It puts the article on the town warrant to allow the people to make the decision, which would be the same procedure that is presently followed to amend the zoning rules and regulations.

Sen. Healy moved the previous question.

Adopted.

Motion failed.

Inexpedient to legislate; adopted.

HB 782, relative to effective dates for laws which have a municipal fiscal impact. Ought to pass. Sen. Preston for the committee.

Sen. PRESTON: Mr. President this refers to the passage of laws which would have a municipal fiscal impact. The new section of the law and I shall just read a brief paragraph, "no law that has a municipal fiscal impact may take effect until after the expiration of the period during which each town or

city affected by the law to adopt its budget for the fiscal year next following passage of the law." In other words, it would prevent further problems for towns for any legislative action that was taken in Concord following their budget period.

Sen. TROWBRIDGE: Just on a technical basis, Senator Preston, if in this legislature we pass this bill 782, and then in the following legislative session a bill that impact a town passes saying effective on passage, that bill will supersede this one. You cannot close off another legislative session, will this really have much effect then?

Sen. PRESTON: I wish I could answer your question. I would assume we would be establishing a legislative precedent that this is what we intended to do and that any future legislation would take this into consideration. I don't know if I have answered your question.

Sen. TROWBRIDGE: Technically, if we make a mistake in the later bill and say that the thing is going to be effective 60 days after passage, and that is after a budget has been taken up by a town, that later law will supersede this one. I think we ought to just realize that.

Sen. PRESTON: I think you are correct. This specifies what we are doing.

Sen. SMITH: Senator Trowbridge, if this were on the books and we did what you suggested, in the next session passed a bill, wouldn't it be that this law would take effect unless we stated in that new statute that notwithstanding this RSA, wouldn't you have to put that language in another bill?

Sen. TROWBRIDGE: All you would end up with is one of these things which they have had several times, where you have two laws that are in conflict, the later law prevails.

Sen. SMITH: Don't we in quite a few bills, say we do such and such notwithstanding RSA so and so and so and so in expenditures?

Sen. TROWBRIDGE: No question but that, there you have a general law and you are doing a specific thing, here you have only effective date, and they are equal, effective date—effective date. They come in direct conflict.

Sen. SMITH: This would become a general law wouldn't it?

Sen. TROWBRIDGE: Yes, the general laws to the effective date as to when things impacting a city and it only has to do with effective date.

Sen. BRADLEY: Senator Preston, I am troubled by the



questions that Senator Smith and Senator Trowbridge raised because I guess I don't know what the legal effect will be when almost certainly next session we will be passing most of our bills with an effective date of 60 days just because they crank that out down at legislative services and there is a problem, no question. The question I have is wouldn't it make better sense for us to somehow to direct legislative services by policy or rule or something to pay attention to the effective date or bills on a bill by bill basis so that we don't impact towns by a quick effective date because they can't do anything about it.

Sen. PRESTON: Senator Bradley, maybe I could answer your question with a question. Do you see anyway that we could so declare that within this piece of legislation by a brief amendment, by so instructing Legislative Services to do so?

Sen. BRADLEY: Yes. I think that the effect of this would be better handled by a concurrent resolution of the two houses which doesn't actually affect the effective dates here. One of the problems that I see in here is that some of these terms I don't think are all that precise, we do things which may well have an effect of decreasing the taxable valuation of property of the towns but we don't really realize it and it seems to me that what is called for here is paying more attention to our effective dates rather than trying to cure it with a bill like this.

Sen. GARDNER: Some of the selectmen in my towns have asked me to vote for this bill. They feel that it would hold off the fiscal impact of legislation until the community had gone through its next budget cycle and town meeting and would thereby facilitate better management of local financial operations and support local home rule.

Sen. Downing moved that HB 782 be laid on the table.  
Adopted.

HB 1173, relative to cemeteries. Ought to pass. Sen. Preston for the committee.

Sen. PRESTON: This bill changes the amount of money that a town may appropriate for abandoned cemeteries for a \$300 maximum to an amount to be determined by the town. It also contains a restriction for private cemeteries and it makes gravestone rubbing without permission of the

selectmen or the trustees of the relations, and leaving debris in the cemetery from logging operations a violation.

Adopted. Ordered to third reading.

**Special Order 12:40 p.m.**

HB 286, increasing the number of fish and game commissioners from 10 to 11 by providing for two commissioners from Rockingham County.

Sen. Monier moved the following amendment to HB 286.

**Amendment to HB 286**

Amend the title of the bill by striking out same and inserting in place thereof the following:

**AN ACT**

relative to the appointment and qualifications of the fish and game commission and providing for the appointment and removal of the executive director of the fish and game department.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Appointment and Qualifications of Fish and Game Commission. Amend RSA 206:2 as amended by striking out said section and inserting in place thereof the following:

206:2 Appointment of Commission. The commission shall consist of 11 members each qualified pursuant to RSA 206:2-a, appointed by the governor and council. Whenever an appointment is to be made to the commission, the governor shall cause to be published the name of his nominee in a newspaper of statewide daily circulation for 2 consecutive days beginning on the day after the name of the nominee is submitted to the council. The council may not consent to an appointment under this section sooner than 30 days after the name of the nominee is submitted to the council.

206:2-a Qualifications of Commissioners.

I. Each member of the commission shall be a resident of a different county in the state except that one commission

member shall be a resident of one of the coastal towns of Portsmouth, Seabrook, Rye, Hampton, North Hampton or New Castle, and not more than 6 commissioners shall be members of the same political party.

II. Each member shall also be qualified in the following manner:

(a) well informed on the subject of fish and wildlife conservation and restoration;

(b) dedicated to the conservation and protection of the state's fish and wildlife resources and of an environment conducive to the welfare of the same;

(c) committed to a fish and game program providing reasonable balance between research, habitat management and law enforcement;

(d) an active outdoorsman holding a resident fishing or hunting license in at least 5 of the 10 years preceding his appointment;

(e) shall have a personal record free of convictions of violation of fish and game laws and regulations of this state or any other jurisdiction within 5 years preceding his appointment; and

(f) at least 5 years experience in one or a combination of the following fields:

(1) forestry

(2) Agriculture

(3) Management of wild lands

(4) Soils conservation

(5) Conservation of water resources

(6) Fish and game management or propagation

(7) Conservation engineering

(8) Conservation law

(9) Wildlife education

(10) Active membership in a conservation or sportsmen's organization in this state.

(g) The coastal commission member shall have general knowledge on all crustaceans and bivalves in coastal waters and salt water fishing in general.

III. Upon nomination by the governor, each nominee shall forthwith file with the secretary of state an affidavit, duly signed and sworn to, setting forth in detail how he complies with the qualifications cited in paragraph II and affirming his belief in the aims of subparagraphs (b) and (c) of paragraph II. His appointment shall not be confirmed by the council

until such affidavit has been examined by them and such appointee has been bound qualified pursuant to this section.

2 Terms of Office. Amend RSA 206:3 as amended by striking out said section and inserting in place thereof the following:

206:3 Terms. The members shall hold office for a term of 5 years, and each shall continue in office until his successor is appointed and qualified. Each year two members shall be appointed. If a vacancy shall occur in said commission, it shall be filled in the same manner for the unexpired term.

3 Subdivision Title. Amend the subdivision title preceding RSA 206:8 by striking out the word "Director" and inserting in place thereof the following (Executive Director) so that said title as amended shall read as follows:

Executive Director

4 Executive Director; Appointment, Term and Removal. Amend RSA 206:8 (supp) as amended by striking out said section and inserting in place thereof the following:

206:8 How Chosen; Term; Compensation, and Duties Generally.

I. The fish and game commission shall appoint an executive director of the fish and game department who shall be a person with knowledge of, and experience in, the requirements for the protection, conservation and restoration of the wildlife resources of the state and who shall be a competent administrator. The executive director shall hold office for a term of 5 years from the date of his appointment and until his successor is appointed and qualified. A vacancy in such office shall be filled for the unexpired term. The governor and council shall have the authority to remove the executive director at any time but only for just cause pursuant to RSA 4:1. In such case, the governor and council shall deliver to the executive director a copy of the charges against him and afford him an opportunity of being heard publicly in his own defense in person or by counsel after being given not less than 15 days' notice. The executive director shall not hold any other public office, and shall devote his entire time to the service of the state in the discharge of his official duties. He shall receive the compensation prescribed by RSA 94:1-4, and shall be reimbursed for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties. Before entering upon the duties of his office, he shall take the oath prescribed by the constitution,



and shall, in addition thereto, swear that he holds no other public office, nor any position under any political committee or party. Such oath shall be filed with the secretary of state. He shall have general supervision and control of all activities, functions and employees of the fish and game department, and shall enforce all the provisions of the laws of this state relating to fish, wildlife resources and marine species, and shall exercise all necessary powers incident thereto. All activities performed by the executive director pursuant to Title XVIII shall be with the approval of the commission.

II. Whenever reference is made in the Revised Statutes Annotated or in any other state statute to the director of the fish and game department, it shall be construed to mean the executive director of the fish and game department.

5 Incumbent Director. The tenure of the director of the fish and game department serving in office on the effective date of this act is extended to December 31, 1977, with the same effect as if he had received an appointment as executive director under RSA 206:8, expiring on said date.

6 Incumbent Commission Members. The incumbent commission members shall serve the remainder of their respective terms; provided, however, the fact that a member of the commission has served as same does not in itself qualify said member for reappointment unless he is otherwise qualified pursuant to RSA 206:2-a and if the governor desires to reappoint a member he shall submit said member as a nominee under the provision of RSA 206:2.

7 Effective Date. This act shall take effect 60 days after its passage.

Sen. MONIER: There were two bills. I just want to give a brief explanation. One was 286 and one was 906 and I would like to remind the Senators that the two bills dealt with identical types of things and that is the appointment and qualification of fish and game commission and providing a means for the appointment and removal of the executive director of the fish and game department. Senator Preston's committee on recreation and development had 286, the executive departments had 906. Senator Preston and I got together and decided that only one bill was necessary. At that particular point, because there had been an amendment that had come over from the house and it is in the house journal on page 1561 and it dealt with HB 906. What we did was amend HB

286 which was in Senator Preston's committee to exactly reproduce what had come from the house and the house journal as 906 and that eliminated a need of having two bills. However, while the house journal had within it the whole amendment and what you have in front of you from Senator Preston's committee, recreation and development, is an exact copy of it, we found when we got it here that legislative services had left out one sentence. As a result if I may, please tear out the amendment of page 5 and insert a corrected copy. If anybody wants to check what this was it is on page 1562 and it was the last sentence of that paragraph which read as follows: "all activities as performed by the executive director pursuant to title XVIII shall be with the approval of the commission." Now I understand very clearly, that Senator Blaisdell will offer another amendment to eliminate that. I really have no objections to that so let me just make my point. The point that I had an objection to was that this was sent down from the committee to legislative services to make an exact copy of what came over because that is what we voted to do. At the same time I find out that legislative services leaves a sentence off because they were told to by somebody out of the house. I as a Senator, really blew my cork on this, I am not going to have something come down from the committee that has been agreed upon by two chairmen and have them leave it out. And when you try to find out why it is left out, it is left out because somebody from the House said well, we agreed and that is going to be amended out later. That's fine, let it be amended out later in the proper form. So I have no objections to Senator Blaisdell's amendment, I just want to make that a matter of record and ask that the clerk or somebody would pass out the corrected copy page 5. Page 5 now makes the amendment that you have in front of you exactly what had come from the house and that is what we had amended to HB 286. We are not amending into something we are putting down something that was there. I might add Mr. President that I personally discussed this with the author from legislative services. I was not pleased about it and I would like the record to show that.

Amendment adopted.

Sen. Blaisdell offered a further amendment to HB 286.

## Amendment to HB 286

Amend RSA 206:8, I as inserted by section 4 of the bill by striking out same and inserting in place thereof the following:

I. The fish and game commission shall appoint an executive director of the fish and game department who shall be a person with knowledge of, and experience in, the requirements for the protection, conservation and restoration of the wildlife resources of the state and who shall be a competent administrator. The executive director shall hold office for a term of 5 years from the date of his appointment and until his successor is appointed and qualified. A vacancy in such office shall be filled for the unexpired term. The governor and council shall have the authority to remove the executive director at any time but only for just cause pursuant to RSA 4:1. In such case, the governor and council shall deliver to the executive director a copy of the charges against him and afford him an opportunity of being heard publicly in his own defense in person or by counsel after being given not less than 15 days' notice. The executive director shall not hold any other public office, and shall devote his entire time to the service of the state in the discharge of his official duties. He shall receive the compensation prescribed by RSA 94:1-4, and shall be reimbursed for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties. Before entering upon the duties of his office, he shall take the oath prescribed by the constitution, and shall, in addition thereto, swear that he holds no other public office, nor any position under any political committee or party. Such oath shall be filed with the secretary of state. He shall have general supervision and control of all activities, functions and employees of the fish and game department, and shall enforce all the provisions of the laws of this state relating to fish, wildlife resources and marine species, and shall exercise all necessary powers incident thereto.

Sen. BLAISDELL: Mr. President, I want to amend out one part of the bill that is on the house record of 1911, on the amendment that Senator Monier just passed out to you. It says about ½ of the way down, all activities performed by the executive director pursuant to title 18, shall be with the approval of the commission. This is my own opinion. This

particular section I think can be interpreted to mean that the 11 man commission will authorize everything that Mr. Corson does now and everything that the future executive director will do including routine administrative duties. The director, as long as I have been here, has always been responsible for the supervision and control of all activities and functions of the department of the employees and I truthfully believe that this is just going to make an errand boy out of the director and I object to the amendment. I have talked to Senator Monier about it, it is my opinion as I said, that the commissioner should avoid dealing directly with employees themselves. This practice in no demonstrates a responsible function of the commissioner and I believe to deprive the executive director of positive control over his employees is totally subversive to state law RSA 206-8. I don't know where this thing comes from but it does say all activities performed by the executive director pursuant to title 18 shall be with the approval of the commission. I am amending just that section out of. I'll be very glad to answer any questions.

Sen. LAMONTAGNE: Are you telling us right now that the commission has more authority than the Director?

Sen. BLAISDELL: What I am saying is that if this amendment of this last part of the section, section 1 I guess, if that is in there, it will take the authority of running the everyday work of the fish and game department away from the director of fish and game and that I believe, is not the intent.

Sen. LAMONTAGNE: If we adopt your amendment then is it going to leave the director with full control of the fish and game as it was in the past?

Sen. BLAISDELL: In the past yes, of the everyday duties of the Director. The Commission will lose no power. As I said Senator, this would just make an errand boy out of the director of fish and game. I don't believe that this is what they want to do.

Sen. LAMONTAGNE: Mr. President I rise in favor of the amendment as now proposed by Senator Blaisdell.

Sen. GARDNER: Senator Monier I would like to ask you why there were two from Rockingham county and not one at large or something?

Sen. MONIER: Senator the intent of the legislation was to have 11 commissioners and one of them is to be an expert in off-shore seawater activities of this nature. The problem



came up three times. At first the qualifications called for where that special or 11th commissioner comes from improves the area, our seacoast area. The truth of the matter is that those seacoast areas are all Rockingham county. So they had a choice, they could say there would be 11 commissioners, 2 of which would be from Rockingham and then to find where or they could say that there would be 11 commissioners, one of which would have the type of qualifications of which I have mentioned but if you do the latter senator, it was my feeling and I think some of the committee went with this, it wasn't a big issue, the simple fact is you haven't said where the other ten will come from.

Sen. LAMONTAGNE: Senator Monier, as long as we adopt your 11 commissioners, this is all you are looking for, is that correct?

Sen. MONIER: That is correct and that he come from the seacoast town and that he have the qualifications that the House wrote into it.

Sen. FENNELLY: Senator Monier, was that terminology by town, in other words the man would be by town, the man most qualified? Let us say Durham which borders Great Bay, a qualification of a professor who knows oceanography, he would be considered eligible for this extra one. Durham and Dover be included?

Sen. MONIER: My answer is no because the bill that came from the House specifically gave a series of towns and municipalities. I would like to refer this to Senator Preston who is more aware of that particular section. The qualification of that would not preclude that the commissioner representing the county could not come from these with those qualifications.

Sen. PRESTON: Senator Fennelly to answer your question, the coastal towns in the bill as came from the House for which this 11th member should come would be Portsmouth, Seabrook, Hampton, Rye, North Hampton or Newcastle. That was discussed in the House and as Senator Monier just indicated the other commissioner could come from without those towns and it is not indicating only people from within these towns have the expertise as set forth in this bill for the 11th commissioner having a general knowledge of crustaceans and marine biology and so forth.

Sen. FENNELLY: Would you agree with me that the majority of experts in the field of oceanography which we are

really talking about, would be located particularly in one area, that happens to be where they have the experience and so forth, at the town of the University?

Sen. PRESTON: No. Mr. President, the amendment as indicated by Senator Monier encompasses the two bills and is now under HB 286. It sets out the qualifications not only for the director but the commissioners, the background that they should have. I don't think the fact that it adds an 11th commissioner particularly from the seacoast communities does any harm. With the 200-mile limit and the New England Fisheries Management Council there is a great need for state participation in off-shore fishing. The fish catches have increased tremendously as a result of the 200-mile limit and keeping the foreign fishing boats as close as they were to our coastline. It is essential, and as you know I have in the past been critical of the governor for a couple of his appointments to the New England Council and he has indicated that he is going to put some people on there with expertise in marine biology and so forth. It is essential within the state and working within the Fish and Game Department that we have some people with a knowledge of the very species of fish off our coastline. We are not trying to get one leg up on any part of the state regarding the deer hunting and so forth. This is just to add the expertise to this commission for someone who is knowledgeable in this area. I would also like to speak in support of Senator Blaisdell's amendment and I think it makes a good bill.

Sen. MONIER: Because of my discussion earlier which may have gotten lost now, I would like to remind everyone that I rise in support of Senator Blaisdell's amendment.

Amendment adopted.

Sen. Fennelly moved that HB 286 be laid on the table.

Motion failed.

Ordered to third reading. (Sen. Smith recorded in opposition.)

Sen. Lamontagne spoke under rule No. 44.

## COMMITTEE REPORTS

HB 498, relative to the state's burden of proof in recommittal hearings for the criminally insane. Ought to pass. Sen. Bradley for the committee.

Sen. BRADLEY: Under the existing case law the supreme court has said that on a recommittal hearing for a person who is in the state hospital and has been declared criminally insane and supposedly is there for life or until he has been released there has to be a recommittal hearing over a certain periods. The supreme court has said that the standard of proof by which insanity must be proved in order to keep him there is beyond a reasonable doubt. That is the classical criminal standard. The attorney general's office feels very strongly that that is an impossible burden to meet in most of these cases because you are not talking about past facts you are talking about predicting what this person is likely to do in the next two years. And they feel if they have to prove beyond a reasonable doubt that the person will not be dangerous to society for two years that they can't do it because psychiatrists never agree on those kinds of issues. Therefore, they are asking by this bill to have the standard reduced to the preponderance of the evidence test which is a more typical test, for civil matters, that you prove the case by a slight preponderance of the evidence, this tips the scales of justice ever so slightly in favor of the one side. That is all the bill does. The attorney general's office feels very strongly about it. It was opposed by New Hampshire Legal Assistance and there is a constitutional question involved here and the attorney general's office has assured us that they will on the first case see that if the matter is challenged that it is brought to the courts and the matter is resolved. So if we are passing something which is unconstitutional then it will be corrected reasonably promptly.

Adopted. Ordered to third reading.

HB 205, relative to claims for damages against motor transport companies. Ought to pass. Sen. Foley for the committee.

Sen. FOLEY: This bill provides when a motor carrier or a household goods carrier receives a bona fide claim and that is the important words, bona fide claim, from the owner of the property transported, the carrier shall pay the claim within 30 days. Usually people themselves who owe the trucking company require 7 days to pay so this would give a 30 day period if there was a bona fide claim. If there was any problem with the truckers naturally this bill would not take

effect. This bill says if there is a bona fide claim the trucker will pay within 30 days.

Sen. Poulsen moved that HB 205 be indefinitely postponed.

Sen. POULSEN: Mr. President, I think the situation is well covered under law now, this is all handled by insurance companies, it is a common occurrence and I think that practically every move there is some claim and they are being well handled. I think it is almost a physical impossibility to get anything like that handled in 7 days, I don't know how it could be done and I don't think it is necessary. It looks to me like the case was instituted by someone who has some minor gripe with a move.

Sen. BLAISDELL: I rise in support of the motion of Senator Poulsen. I have been in the retail business for 23 years at one time and 9 years in my own store and of all the years that I have been in business I have never had any problems with any of the trucking companies. I have had a few claims and had them paid right on time so I particularly would rise in support of your motion senator.

Sen. BRADLEY: Very frankly this was a bill that I did not have a great deal of enthusiasm nor did any other member of the committee. I don't believe the bill does much of anything at all. It says that bona fide claims have to be paid within a certain time limit. The situation is now that whenever a claim isn't paid it is because the other side will say it is not a bona fide claim that is why we didn't pay it. I don't really think that the bill does a whole lot of good but I guess this is one where the committee felt oh well it doesn't do any harm, let it go.

Sen. FOLEY: Mr. President I rise with the same feeling that the bill is no skin off my teeth one way or the other because I don't plan to move. The consumer felt that if there was a bona fide claim they should at least receive their money within 30 days.

Sen. Bergeron moved the previous question.

Adopted.

Adopted.

HB 248, relative to firearms in the commission of felonies. Ought to pass. Sen. Bossie for the committee.



Sen. Bossie moved that HB 248 be laid on the table.  
Adopted.

HB 352, relative to the recording of agreements resolving boundary disputes in those registries recording on microfilm. Ought to pass. Sen. Foley for the committee.

Sen. FOLEY: Mr. President, when recordings have been made on boundary agreements the margin of books is used concerning the deeds of the parties that are recorded. This bill provides registries that record on microfilm a way to list all the parties to the boundary agreement in both the grantor and grantee indices instead of using the margin of the record book.

Adopted. Ordered to third reading.

HB 433, to create and provide police powers for the security forces at certain state institutions. Ought to pass. Sen. Bradley for the committee.

Sen. BRADLEY: Mr. President, under the existing law the security officers at the state institutions such as the New Hampshire Hospital and Laconia State School do not have police powers. Basically that means that they don't have the power to arrest so if they catch somebody stealing or breaking in or doing something they really are kind of forced to call in the local police who can't do all that much about it themselves. This bill would give those security personnel police powers including the power to arrest on the Hospital grounds and not off the grounds unless they are in hot pursuit of somebody who has committed some offense on the ground. It seems to us to be a reasonable thing to do, to give these people police powers the way night watchmen might be given police powers and there was no opposition to the bill.

Sen. TROWBRIDGE: Two simple basic questions. Group 2, does this put them into group 2?

Sen. BRADLEY: Yes.

Sen. TROWBRIDGE: It does. These are the security officers at the Laconia State School and the New Hampshire Hospital.

Sen. BRADLEY: I think it is written generally in terms of the . . .

Sen. TROWBRIDGE: The other question that I have is has anybody asked those people whether they want to have police powers. This is not the silly question that you think it is. People sign on and we had that with the motor vehicle inspectors where we moved them all in and they were in uniforms and guns and they were quite uncomfortable. I had a good friend who was in that move, was there any testimony that these people want to be?

Sen. BRADLEY: No the testimony came from the president of the Mental Health Association and from Dr. Melton from Laconia State School, through letters and phone calls. Actually there was no one who came to the hearing on this one.

Sen. SANBORN: Senator I was interested here in this analysis, and you being a legal mind perhaps can clean this up for me. What kind of pursuit is hot pursuit?

Sen. BRADLEY: As opposed to cold. That is a concept that is reasonably well recognized in the law. In other words, the typical analysis is the trooper who is chasing a speeder can go across a state line in hot pursuit. That would mean basically he still has him in sight. If he heard about it going across a few hours ago it would not be in hot pursuit.

Referred to Finance under Rule No. 24.

HB 448, relative to retirement benefits for judicial referees. Ought to pass. Sen. Bossie for the committee.

Sen. BOSSIE: It is my pleasure to bring this out on the floor and we realize that from the discussion that has gone on about pensions for some of our judiciary and in a lot of what I certainly agree with my good friend to my right, Senator Healy. I would also like to state that with regards to the district court bill that is now over in the House, they have recommended an amendment so that it will be contributory so there won't be any free lunch for the district court judges. Now this bill was requested by the attorney general and the chief justice of the supreme court. It would have an effect on one judge and the judge's name is Blanden and he retired I believe in 1970 at age 70. He 75 or 76 and he still does act as a judicial referee. The attorney general wrote to the committee and he said this was submitted because Chief Justice Keniston and I each believe that the statutory language providing for the judiciary retirement system should be clarified to make it very clear that the retirement benefits are to be extended to judicial referees and their spouses. In the rare instances in which judicial referees retired from active participation in the courts prior to the enactment of the present retirement plan. While to the best of my knowledge there is no question that such was the intent of the legislature, the language used was a lot less explicit than might have been the case. I do not believe the benefits as deserved and significant as these should ever be the subject of argument. The language of HB 448 should give explicit recognition to the objective of the legislature in providing for judicial retirement in the first place and to the practice which present obtains. Since the amount paid to a judicial referee is such, is identical to the amount that will be payable to a judicial retirement benefit there would be no present change in dollar consequences as a result of the enactment of the provision. Chief Justice Keniston wrote and said "personally and on behalf of the supreme court I should like to be recorded as strongly supporting HB 448. This bill reinforces the original intent of the laws of 1974". There has been no opposition from any source as far as I can ascertain and when enacted will fulfill what was originally intended in 1974. It is my hope that the matter will be given favorable consideration by the New Hampshire State Senate. Basically Mr. President, members of the Senate, this expresses what it was. As you know in 1974 we passed the law and for some reason one individual was left in between. He certainly does deserve it and not-

withstanding the fact that in the future they should be contributory, we have done it, we have to live with it and I would be very pleased to answer any questions.

Sen. PROVOST: Would that be retroactive?

Sen. BOSSIE: No. It would be effective 60 days and he would start to receive money from then on.

Sen. HEALY: Councilor, Senator, meet the judge. This is just what I thought was going to happen. Would you believe that even the clerks of courts now, and I am talking about district courts and others, are also concentrating, looking forward to getting into the pension system, would you believe that?

Sen. BOSSIE: Yes I would and I would believe further that if they are going to get into a system it should be contributory. Therefore it would be vested and I think that is a good thing. I have no problem with contributory pensions.

Sen. HEALY: Senator if you want the district court clerks and other clerks involved in a contributory system wouldn't you think it would be advisable to come up with something like this fellow, who is a nice guy, Blanden, he is a nice guy and he is getting a bit old, I don't know how long he is going to enjoy a pension but don't you think it would be nice if he got into the system and paying a few pennies for this?

Sen. BOSSIE: You know, it is the idea that this gentleman has served his state well. As you know, a supreme court judge makes \$33,000. It might seem like a lot to you but it is not considering how much they could receive on the outside. I would say that a fellow 74 years old can hardly contribute to a pension system that he probably, he will be lucky if he has a few years to go on this so I don't think it is any great problem. Prospectively, if we are talking about the future, I want contributory systems and I agree with you.

Sen. HEALY: What does a justice like Justice Blanden do with \$30,000, does he go out and spend it, have a good time or what?

Sen. BOSSIE: See now, he is a judicial referee and he serves at only a portion of the pay of a regular judge and frankly for somebody in that position who is expected to live in a certain manner, who is entitled to go south in the winter in a way, is entitled to decency and respect, I don't think that is too much money.

Sen. HEALY: You put the judicial systems and those who work for judges sort of in a different category than a man



who works in a mill, is he entitled to go down to Florida and have a good time when he gets older, when he is 70 or 80 years old?

Sen. BOSSIE: They are entitled to dignity and they are entitled to live in almost the same life style as they are accustomed to during their working years. If one is a working person and not generally going to Florida every winter then there is no real problem with it. But if one is—different strokes for different folks. There are people who are inherently rich and they do different things than I do.

Sen. HEALY: You will say then that we have different life styles. Financially different life styles.

Sen. BOSSIE: Those people who earn \$10,000 a year during their working years, can't expect a pension of \$30,000 a year and at the same time those people who work for \$30,000 for the state and they give up much higher salaries, perhaps should be entitled to a very significant pension when they retire, this is deemed as part of their compensation.

Sen. HEALY: Why do these legalized, judicial wonders have to give up all these big salaries and take these positions?

Sen. BOSSIE: Well, we have argued about this many times this year and many people like you and I, feel we have an obligation to our state. We serve for \$200 a year but we can't expect everybody to be that foolish.

Sen. HEALY: Do you think that we should get a free pension?

Sen. BOSSIE: My colleagues would say yes. Let me tell you this Senator two years ago, the Governor wanted to increase the amount of money you pay for your license plates so that you could have a pension for legislators. I said this is ridiculous—no I don't want to be around long enough to get a pension. But isn't it funny that our Congressmen after five years are entitled to a pension. Our United State Senator after one term gets a pension? Where is the fairness there?

Sen. HEALY: When you make reference to congress, in my thinking, you are making reference to a bunch of attorneys, lawyers, judges. 75% of your congress are judicial members, right?

Sen. BOSSIE: That really isn't the point. Anybody can run and anybody does run. The fact remains that the people who run for congress whatever party or background that they are, they are elected by all the people and if you want to

put a law in that no lawyer can make more than \$15,000 a year or no lawyer can run for the congress, feel free, but this pension system is not opening the gates, it is doing something for an old man who has given a lot to the state of New Hampshire and I just think it is being decent and I fought some of these other bills these justice court bills, on your side because when we start something for a class of individuals we should at least try to make it better for the citizens. Let's do it in that manner rather than hurting some older person, he is no rich man.

Sen. HEALY: This judicial referee, does he come under social security?

Sen. BOSSIE: I am sure that he would not because he earns money every year, the lousy pittance that they permit you to make, so most people including judges, including lawyers, they earn enough that just from things that are left over.

Sen. HEALY: Does this gentleman work full time too?

Sen. BOSSIE: No. A judicial referee is not expected to work full-time. If he is 74 years old I would certainly, I don't plan to and I don't believe he does. He sits on various special cases that are assigned to him by the supreme court. He is a very scholarly individual and I think he is one fantastic man and that is one reason why I agreed to take it out of committee.

Sen. HEALY: So you would say it is out of the kindness of the hearts of the people who work in the shoe factories and the mills and everybody else who have paid taxes, that they should be nice to this gentleman because he is getting old.

Sen. BOSSIE: It is out of my tax money too and proportionally I would pay higher taxes than others. Any pension system has to come from someplace and it is everybody that pays it. Just like everybody pays our \$200 salary for two years, wonderful.

Sen. HEALY: I would like to see the tax report from some of the lawyers. Thank you very much.

Sen. LAMONTAGNE: Senator did I hear you correctly that you have requested the committee to bring this bill out?

Sen. BOSSIE: No, I am very impressed with Judge Blenden and I told them I would take it out, that there would be a fight because of Senator Healy's very strong feelings toward pension funds.

Sen. LAMONTAGNE: Do you suppose we could get you to take that Pittsfield judge bill out?

Sen. BOSSIE: I don't think that is germane.

Sen. SMITH: When Judge Blanden retired he was receiving a salary of quite a bit less of what the salary is today, is he not?

Sen. BOSSIE: Yes he was.

Sen. SMITH: Doesn't he currently get as a judicial referee a portion of that salary?

Sen. BOSSIE  $\frac{3}{4}$  of that salary.

Sen. SMITH: All you are asking to do due to the fact that the man is 76, all you are asking is that he be transferred from a judicial referee to a retirement at no increase in cost, is that correct?

Sen. BOSSIE: Basically that is correct.

Sen. MONIER: Is it my understanding Senator Bossie that this bill is for one person?

Sen. BOSSIE: It is.

Sen. BRADLEY: Just to follow Senator Smith's comments which I think does clarify the situation a little bit, the bill obviously is drafted in a general way. In fact it happens to affect only one person and only ever will affect one person. Everyone has certain unease about a bill that affects only one person except as Senator Bossie has said, in the letter that he read, that the present law has been clear as to this man's status because as I reconstruct the thing he retired from the supreme court before the supreme court got a retirement plan. He became a judicial referee which requires him to work and to perform duties assigned to him as a judicial referee which means a special kind of judge. At this this man has been quite busy in his seventies and worked hard and travels around the state to do it. He gets a salary for doing that, which is  $\frac{3}{4}$  of the supreme court salary. When we passed that retirement law for supreme court judges it is unclear whether or not we intended to include judicial referees who had been formally supreme court justices. They don't want to have to litigate that, they don't want this particular individual to have to litigate that question as to whether or not he is entitled. This simply makes it clear that when this particular individual is no longer able to perform his functions actively as a judicial referee that he would be entitled to the same retirement benefits that other supreme court justices are entitled to.

Sen. PRESTON: I did not intend to speak on this particular bill and I usually concur with my friend Senator Healy but I would like to speak to this one person and how I got to know him briefly. In 1964 perhaps you recall the Hampton Beach riots and the riots that occurred in Laconia. The then Governor King established a commission on public disturbances. Those were bad times, there were people who wanted to over-react and bring in National Guardsmen and start shooting people. Governor King, in establishing that committee for public disturbances chose the one person whom he thought their coolheadedness and common sense could prevail. I was fortunate enough to serve on that commission and spent a 100 hours for the man whom I came to know as Justice Blanden. I must say that frankly as a layman, no one did more to convince me of the integrity of the New Hampshire Supreme Court than Justice Blanden. I have yet to meet a finer man than he, I met no one with greater wisdom and common sense or that could use less words to say more than this man. I have never met anyone who was as dedicated to the State of New Hampshire who at times served without any compensation on these boards than Amos Blanden. I wasn't aware that this was a special bill for the Justice but in this particular case I am honored to vote for this type of legislation because I know in this case that we owe it to a man even though he is now retired has seen fit to allow us to benefit from his expertise in the field of law. When he retired and they had a retirement dinner for him I was unable to attend and I indicated in a letter what a shame it was that we were going to lose his expertise from the bench because of the retirement age. I was thrilled to hear that he was going to continue and I urge that we pass this bill.

Sen. HEALY: Mr. Chairman, it is not my feeling that I dislike this gentleman, and it might even go deeper than that on occasion, but I don't dislike Justice Blanden or Justice Keniston or any of the others, I just dislike inequality. I think that the people of New Hampshire that work for a living should have just as many rights as the judicial system. The lawyers have gotten away with so-called "murder" for so long that it is unbelievable and people now are beginning to catch up with them and they realize this, so they are all coming in now with a rush to see what they can get out of this system. If I should be back in the Senate again two years



hence, if I am there certainly will be a strong bill in and it won't be 75% for the judicial system retirements and it won't be their wives getting it, it will not be their children and I think the public should know about this and I think the story should be printed to the effect of what is going on in the state of New Hampshire when it comes to expending money. I have a note in the paper right here that I can show you where just two people retiring getting 42 million pennies on our new tax, the tax which they want to increase, the food tax. I don't know how many Dunkin' Donut shops are going to have to pay for just two pensions but ten years hence if the situation goes on we will need \$100,000 Dunkin' Donuts to pay for these pensions that are going on. I want to say this, I want to have a good time and enjoy myself this weekend. I am going down to Seabrook Racetrack and I pay my own bill down there. The only thing I get out of Seabrook Racetrack when I go down is the sea and sometimes I don't even get that, if I don't apply early enough for a reservation. When I go down there tonight I might join my good friend Senator Fennelly who goes down there quite frequently and we might both get drunk and I'll pay for the booze if I do drink it. And if I come back tomorrow I have plenty of work to do at home but I don't want to come back with an ice bag on my head for the sake of the taxpayers. I am sorry to say that I feel this way but I don't think it is honest or in the spirit of patriotism to pick out one classified section of people and say that they are a lot better than the others. If we are all going to get pensions that's good, we'll all get social security, good, but I don't think that the judges or the lawyers or anybody else should become royalty in the state of New Hampshire.

Sen. Monier moved the previous question.

Adopted.

Adopted. Ordered to third reading.

(Sen. Healy recorded in opposition.)

HB 678, relative to the sale of property in settling estate.  
Ought to pass. Sen. Bossie for the committee.

Sen. BOSSIE: Mr. President this bill makes a change in the current probate law under which quite often when a will is made it specifies that the executor shall have the authority to dispose of personal property and real estate and other

things. Well, notwithstanding the will and the terms whereby the individual makes it, the testator, the probate court requires a license to do these things, to sell personal property or to sell real estate. This bill will waive that and provide that as long as all the years or the year that received the property agrees in writing then the probate court does not have to issue a license. Now with regards to a license to sell personal property does not have to be published but in a case where real estate is to be sold a petition to sell real estate must be published in the local newspaper. It is a lot of added expense and it is just unnecessary especially when the individual who makes the will says you don't have to do it and they normally would appoint somebody within the will to be the executor whom they trust. So this is a good bill and it would cure a lot of the hassles necessary right now, of probate practices. We have urge its adoption.

Adopted. Ordered to third reading.

HB 777, relative to unfair, deceptive or unreasonable collection practices. Ought to pass. Sen. Foley for the committee.

Sen. FOLEY: Mr. President, this bill came in with the blessing of the attorney general's office, the consumer protection division and it does relate to unfair, deceptive and unreasonable collection practices. The bill simply permits the attorney general to bring action in the name of the state against any people who collect or attempt to collect a debt in an unfair, deceptive or unreasonable manner. We move its passage.

Sen. ROCK: Senator Foley, did you have testimony at the hearing as to what might be considered an unfair method of collecting a debt?

Sen. FOLEY: As I recall I think it was on that Saturday that we came in for the full day and as I recall it concerned con artists in particular.

Sen. ROCK: Could you give us an example of a con artist collecting a debt in an unfair manner.

Sen. FOLEY: I don't think I could but perhaps I will yield to Senator Bradley who was there for the full hearing on this one and I wasn't.

Sen. BRADLEY: There are about 12 separate categories

of what is considered to be an unfair or deceptive or unreasonable practice of a debt collector. I'll try to highlight some of them to give you the idea. One is, communicates or attempts to communicate with a debtor by using profane, obscene or vulgar language with intent to abuse. There is another area that regulates how much you can call a guy at his place of business as opposed to being home. There is one in there about using threatening to use force or violence, threatens to unlawful action or action for debt collection in the regular course that business does not take. Some of these are so long I can't give them all to you. He communicates with the debtor with forms or instruments which simulate the form and appearance of judicial process when they're not really, makes any material, false representation or implication of the character, extent or amount of the debt or of its status in any legal proceeding. I think these categories were pretty carefully laid out and have been adopted, I am not sure that there is a uniform law but I think that these kinds of things have been adopted in several other states as law.

Sen. ROCK: Then we do have guidelines already set down as to how debts may not be collected already, and as I understand from Senator Foley's testimony this makes the attorney general the lawyer for the person who feels he has been aggrieved by a process that is already established in the statute rather than taking some other course.

Sen. BRADLEY: Not exactly. What it does is to say that a violation of the debt collection law becomes a violation of this general unfair trade practices law which among other things gives the attorney general power if he so chooses, it is really the consumer protection division of the attorney general's office who intervene in a situation. Now to further amplify that, the attorney general's office by custom and by policy within that division does not usually concern themselves with an individual instance. They usually try to act where there is a course of conduct where they can do a lot of good so this doesn't necessarily mean that every individual who has a complaint against the debt collector can sign up the attorney general.

Sen. ROCK: But it does mean doesn't it Senator that while they may not they can?

Sen. BRADLEY: The attorney general would have the power to intervene if they found a violation of the law, yes.

Sen. ROCK: Senator, how many more lawyers are we

going to have to have in the attorney general's office to take care of this new statute?

Sen. BRADLEY: The consumer protection division of course has been claiming ever since they have been established that they have more work than they could possibly do. But they do the best they can—they were not making a plea to us for that. I don't think that this one particular addition is going to be the cause. Whether or not the attorney general's office can demonstrate a case for hiring more people, particularly in the consumer protection division, I think, would depend on a much broader situation.

Sen. ROCK: Would it be safe to assume however senator, that we might well be hearing in a very short time that we passed a law, HB 777, that mandated the attorney general has to hear these on an individual basis and because he has 500 new complaints every month, he needs 6 new lawyers to handle the complaints of deadbeats who don't pay their bills and duck behind the cover of phones and facades so they don't have to pay a just debt and we now put the attorney general in the business of protecting them wherein they should be paying their bills like the rest of us pay our bills?

Sen. BRADLEY: I respond to that two ways, there are two questions there. Yes I assume that the attorney general's office when they ask for more personnel will point to this as one of the laws that they are charged with enforcing as part of their justification. And what I am saying is that I don't think this one makes that much difference or the other. Further answering it, I would say I would be reasonably confident that the attorney general's office is not going to be in the business of protecting deadbeats who are trying to get out of paying honest debts.

Sen. ROCK: What indications from the attorney general's office specifically cause them to support this legislation, I'll make it a two-part question. Was it introduced at their request and second, what unscrupulous lawyers are collecting in an unfair manner or what debt collection agencies are harassing them which led them to support this bill.

Sen. BRADLEY: Senator Bossie was one of the sponsors along with about 12 others and I think I will defer that question to him.

Sen. BOSSIE: I would be very pleased to give you the answer to that. I will give you a case that has happened in



New Hampshire and why I agreed to sponsor this. I know of a case Senator in which a bank hired a couple of thugs out of their collection department and said, hey we want our money. When he said he didn't have it they actually beat him up. There was no such law as this so they came to us as lawyers and we filed against the bank and we won. We got \$4 or \$5,000 dollars out of the bank as a result of this. This is not an everyday occurrence and we don't want you to think that it is. Somebody should have been able to bring an injunction against the bank for this sort of practice. This is just unacceptable in the state of New Hampshire. So this is not the sort of thing that the attorney general is going to have to bring, hire six or seven new lawyers to do this, it just isn't there. There are just some people and most of them are not lawyers who are unscrupulous about collecting money. There is a way to do it and a way not to do it. We certainly favor this bill and I would be glad to answer any more questions.

Sen. ROCK: I am reminded by Senator Trowbridge that the moral of that story is that if you are a deadbeat get beat up and you won't have to pay your bills. What concerns me Senator is that we are inviting people to use the attorney general's office to handle their case which in fact could be very well handled by your law firm or Senator Bradley's law firm or Senator Jacobson's law firm if he were a lawyer, well we don't need it. The protection is there, Senator Bradley read you the statutes and I am sure you are familiar with them. If you do it in an unfair manner you have committed a violation and if you feel you have been aggrieved you have recourse through the courts. We are going to wind up with the attorney general coming back and saying I need six more lawyers because everybody in New Hampshire because everybody who gets a 7:30 in the morning phone call and wakes them out of their beauty sleep because that is the only time you can catch the deadbeat, the rest of the time he doesn't answer his phone, he is going to want the attorney general to protect him from the people who justly should be getting their bills paid.

Sen. BOSSIE: Well Senator as you know, I was the sponsor, co-sponsor was Senator Monier of his deadbeat bill last year under which you could go to court and make a motion to show cause why they shouldn't pay. At the same time I agree with you that they should pay. There are certain

people that don't pay for some quasi-valid reason that should be argued about between them and whoever wants the money. This does not change the burden at all. It does not provide that the attorney general shall be acting for people in defending against collection agencies or whoever else tries to collect. All it says is that they are doing it in an unfair manner, deceptive manner, then they can get basically a restraining order against them for doing it. Like in the case of the bank that I was telling you about. Frankly, the guy should have filed a criminal assault charge against them and he should have called the attorney general's office.

Sen. ROCK: Senator let me reiterate a little scenario for you if you will. I am looking to a person who might be in the advertising business. He might have sold some advertising to a person who came in and wanted to buy an ad to promote his business and that individual, to promote his business, perceived the value of the advertising, didn't pay his bill. I now try to collect the bill. I am automatically a debt collector because it is a debt. The fellow is a pretty shrewd guy and he has a box number so it is pretty hard to write him a letter and you don't know where he is and it is pretty hard to get him by telephone but you finally find out that he works at the hardware store.

Sen. BOSSIE: Excuse me Senator I think I know that guy and if you ever do find out where he lives let me know.

Sen. ROCK: And I call him up at work and he says, that's unfair according to the statutes, I bothered him at work three times in a row and he comes to the attorney general and he says debt collector Rock is trying to get money out of me in an unfair manner and I want you to represent me against him, is that not a possibility under this bill?

Sen. BOSSIE: I don't think so. Let me tell you and I was being facetious just a few minutes ago but there is an individual who does that and has been doing it for a number of years in Manchester, he advertises in the Union Leader. I probably have sued that individual 9 or 10 times and the sheriff knows where he lives fortunately. Now he has a separate business. A separate business, a builder and he has a box number too. And I have sued him too and in fact on occasion I sent my particular client to the attorney general's office because these people are obviously fraud under the consumer protection laws and I finally got the case back and we are both kind of working on it from a criminal aspect

from the state's point of view and civil from my point of view, the person has nothing. I am not about to do anything and believe me, to make one who is less than honest in doing his business make their life any easier but I just don't want these instances and the one that came to mind was that bank when they hired the thugs. This does happen on occasion. This will not be any problem and if you should be so gracious as to permit this to pass I am sure that you will never hear of it again during your legislative life cause there just won't be a problem. We did not hear any testimony any where from anyone, including the attorney general's office, this came out of the office by the way.

Sen. ROCK: I am not so sure Senator that you are indicating that my legislative life is going to be a short one. I think we will be hearing of it again if we pass it.

Sen. BOSSIE: Okay. I think it is a good bill, it is fair and it will not overburden the state, heavens knows that we can't do that. If people go to their own lawyers or to whomever they want to complain, fine, but this is a system, a system of harrassment that is illegal. The state should be able to step in and say hey, you either do it right or not at all.

Division vote: 10 Senators voted yea. 9 Senators voted nay.

Adopted. Ordered to third reading.

HB 847, repealing provisions relative to depositing wills with the register of probate. Ought to pass. Sen. Bossie for the committee.

Sen. BOSSIE: Mr. President, there has been a law effective in the state of New Hampshire, that has provided that if you make a will, if you pay the register of probate a dollar you can keep your will there for safekeeping. Well this system sounds nice but what happens is that people move away. As we know, half of the population moves every ten years and quite often move out-of-state and they can't find where these wills are. They have got wills there from 50 years ago, they never heard of these people. What this bill will do is just rescind that law so the people themselves will keep their wills once they make them. As we know, quite often if you go to a lawyer's office they will consent generally to keep them in their safe for you at no charge. A lot of people prefer

to keep them at home, no problem. The register of probate doesn't want them hanging around because they really don't serve the purpose for which it was originally intended for many years ago when there was really no mobility. We think it would be a good law to pass at this time.

Adopted. Ordered to third reading.

HB 857, eliminating the need for legal seals on summonses, subpoenas, deeds and conveyances. Ought to pass. Sen. Bossie for the committee.

Sen. BOSSIE: Mr. President, this bill does exactly what the title says, it eliminates the need for those little red seals on summonses, subpoenas, deeds and conveyances. As we know, over the years, these have been used and it comes back from commonlaw England when every thing done by the King was under seal. It has come into America and in New Hampshire it has been a tradition and I would suspect that notwithstanding the fact that we pass this bill, lawyers will continue to use seals for one reason or another. Also, we have found and heard in our testimony that most other states have omitted the need for seals. We think it is a proper time now to do away with this archaic practice and there is no need to make something valid by having a little red seal when it is just as valid without it. I think it is a good bill.

Adopted. Ordered to third reading.

HB 97, relative to the duty to record the discharge of an attachment upon real estate. Inexpedient to legislate. Sen. Bossie for the committee.

Sen. BOSSIE: Representative Wiviott brought this to change the question of who shall record the discharge of attachment. The law has been the same in New Hampshire for boucou years and we really can't see any problem with the way things have been going and we would recommend that this bill be inexpedient.

Adopted.



HB 269, relative to the suspension and revocation of a person's license or operating privilege. Refer to Interim Study by Judiciary Committee. Sen. Bossie for the Committee.

Sen. Rock moved that HB 269 be made a special order for Wednesday, June 8, at 11:02 a.m.

Sen. ROCK: I was aksed by a distinguished Senator if he would have the privilege of having a special order so that he might discuss it further with an amendment and I have been of a mind that anyone in this session who requests a special order should be entitled to have that privilege although he can't make the motion at this moment.

Adopted.

HB 674, relative to conferences of probate judges. Refer to Interim Study by Judiciary Committee. Sen. Bossie for the committee.

Sen. BOSSIE: Mr. President, nobody showed up at the hearing in support of this bill and we are fumbling in the dark to find out what the bill does. The individuals on the committee could find no great reason why this should be law and so we thought that the best thing we could do with it was to send it to interim study and we make that recommendation to the full senate.

Adopted.

HB 159, relative to equine infectious anemia. Ought to pass with amendment. Sen. McLaughlin for the committee.

Sen. McLAUGHLIN: Mr. President, members of the senate, we have had a lot of dog bills here today, this is a horse bill. This amendment on page 10, what we are saying or doing here is that if a horse is proved to be positive and has to be retested again by the state and if so a marking will have to be put on the horse, a lip tattoo or a hot iron and so forth. It is to protect the people from buying a horse from somebody else who may be positive. I don't think the amendment does too much to it excepting making sure that anyone selling a horse is going to tell the other people who are buying it

that it is a positive horse and won't be buying something for a child to use around the yard or something and find out later on they cannot have it. It is not restricting the horse whatsoever. If it is a positive horse and at the same time you are not allowed to sell it or buy it from out-of-state people and getting large sums of money for it and at the same time think you are getting a horse that has no problems whatsoever. The amendment is a simple amendment and most people went along with the amendment. I recommend its passage.

Sen. TROWBRIDGE: If this law passes a horse that has a positive coggins test will not have to be destroyed and two, it will not necessarily be kept in a screened shed so that the major reason for the bill is being passed.

Sen. McLAUGHLIN: Correct.

Sen. Bossie moved that HB 159 be made a special order for Wednesday, June 8 at 11:03 a.m.

Sen. BOSSIE: I had talked with Senator McLaughlin earlier and things have been very busy today and I did one a chance to read the bill as amended by the House. Now with the Senate amendments I just want to make sure as well as the dog bills, I am interested in horse bills. I would like the opportunity to review them all together.

Adopted.

HB 802, relative to the system of birth registration. Ought to pass with amendment. Sen. McLaughlin for the committee.

#### Amendment to HB 802

Amend RSA 126:6, II, as inserted by section 1 of the bill by striking out the same and inserting in place thereof the following:

II. When a birth occurs in an institution or enroute thereto, the person in charge of the institution or his designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the clerk of the town or city within which the institution is located or as otherwise directed by the registrar within the required 6 days. The physician in attendance

shall provide the medical information required by the certificate and certify to the facts of birth within 72 hours after the birth. If the attending physician does not certify to the facts of birth within the required 72 hours, the chief of obstetrics or the chief of the medical staff shall complete and sign the certification.

Amend RSA 126:6, IV-V as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

IV. When a birth occurs outside an institution the necessary facts will be obtained and processed under the rules and regulations of the division of public health in accordance with the procedure established by the state registrar.

V. (a) If the mother was married at the time of either conception or birth, or anytime between conception or birth, the name of the husband shall be entered on the certificate as the father of the child and the surname of the child shall be entered on the certificate as that of the husband.

(b) If a situation arises whereby the mother claims that the father of the child is not her husband, and if the husband agrees to such a claim, and if the putative father agrees to such a statement then a 3-party affidavit of paternity may be signed by the respective parties and duly notarized. This will allow the name of a non-husband to be placed on the birth certificate as the father.

(c) In all other cases where the mother is married and a question of paternity determination arises it shall be settled by a court of competent jurisdiction.

VI. (a) If the mother was not married at the time of either conception or birth or between conception and birth, the name of the father shall not be entered on the certificate of birth without the written consent of the mother and the person to be named as the father, in which case, upon the request of both parents in writing, the surname of the child shall be that of the father. The written consent shall be deposited with the clerk of the town in which the birth occurs and shall be filed and cross referenced with the original certificate.

(b) When an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly any further modification of the birth certificate regarding the

paternity of the child shall require an order from a court of competent jurisdiction.

(c) In any case in which paternity of a child is determined by a court of competent jurisdiction, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(d) In all other cases, the surname of the child shall be the legal surname of the mother.

(e) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

(f) In the case of a child born of unwed parents the legal portion of the birth certificate shall not contain any reference or specific statement to the fact that the child was born of unwed parents, or to the marital status of the parents. When, from the information appearing upon a birth certificate, it is discernible that the record is that of a child born of unwed parents, the clerk receiving the original record shall not transmit a copy of such a record to the city or town within which the parents reside nor shall he publish a report of such birth in any town or county report.

VII. Either of the parents of the child or other informant shall attest to the accuracy of the personal data provided and sign the certificate in time to permit the filing of the certificate within the 6 days prescribed by this section.

Sen. McLAUGHLIN: This bill, on page 11 is the amendment, it is awful long but it doesn't really mean that much. In the amendment what we are saying is that after 72 hours after a birth of a child someone has to sign for the fact that a child was born and so forth. We're putting the responsibility and so forth on the chief of the medical staff at the hospital and the original bill that came to us it said the administrator of the hospital to sign for it. They felt it should be the head of the medical staff of the hospital so if he has to do it it means he'll go back to the doctor unclear and so forth and it will not happen again in the near future. The administrator will just be a clerical problem, they don't think that to be correct. Further down in the amendment under RSA 126-6 roman numeral 4 and 5, it is just exactly the way the bill is except it is renumbering it. The bill that came over to us in four and so forth and it was not done properly. The wording is exactly the same even though it takes a page and a half.



Amendment adopted. Ordered to third reading.

Sen. Monier moved reconsideration on HB 850.

Adopted.

Sen. Monier moved to place HB 850 on third reading at the present time.

Adopted.

Sen. Monier moved to place HB 850 on second reading at the present time.

Adopted.

Sen. Monier moved that HB 850, requiring each school district treasurer to pay out monies belonging to the district upon orders of the duly empowered representatives of the school board be laid on the table.

Adopted.

Sen. Bradley moved that HB 258 be taken from the table.

Adopted.

HB 258, restricting the disposal of high level nuclear wastes in the state and within the coastal jurisdiction of the state.

Sen. Bradley moved an amendment to HB 258.

Sen. BRADLEY: You will recall last week when we debated this that there was a section in the bill which said "nothing herein shall be construed to prohibit the transportation of such wastes from sites within the state." The question was raised does that mean you can't transport something from Maine to Massachusetts through the state or does that mean some other way you are restricting transportation. I didn't think it did but to make it clear I am proposing an amendment which would strike out that section I just read and replace it with the following section. "Nothing herein shall be construed to prohibit the transportation of any such waste to points outside the state." I think that with this amendment it will be clear under the bill that as long as the nuclear waste is going out and not coming in for permanent disposal there is no problem. You can have nuclear waste here in connection with any generating plant, you just can't store it except on site and then if you want to transport them then you have to transport them to a point outside the state. In sum the bill is saying that you cannot bury if you will,

dispose of permanently nuclear wastes in New Hampshire and that is all it is saying.

Sen. MONIER: Senator I am very happy that you put on the record that last statement. I don't have a phenomenal memory but I just want to add if I may, would you agree that what you said was the intent of the bill and what the bill does in sum, is to say that nuclear waste will not be buried permanently in the state of New Hampshire. Would you agree to an amendment to the whole bill to say just that?

Sen. BRADLEY: I really wouldn't object very much except the trouble is, what is permanent? That is why in a way that we got ourselves into difficulty with the draftsmanship, that is the effect of it in layman's terms. If you pass this bill you're not going to be able to bury nuclear wastes in New Hampshire.

Sen. MONIER: Since we had this debate at the time and because of the amendments that have been put on it I am the one that raised the questions about transportation one, I raised a couple of other questions and this was your amendment to my question and I accepted that your amendment does answer the question that I raised in that particular issue. However since then I have done some analysis because I felt frankly that there were some other things involved in this and I would like to ask you that at the present time, the Nuclear Regulatory Agency Commission at the present time currently has a moratorium on transporting nuclear waste period until a final determination is made concerning how it can best be disposed of. Were you aware of that because I was not?

Sen. BRADLEY: No I wasn't.

Sen. MONIER: Current procedures for short-term storage under the NRC is on-site until that moratorium is lifted. Now this bill, not the transportation part, the other part, would prohibit that?

Sen. BRADLEY: No, this bill would allow for the short-term storage on-site.

Sen. MONIER: Would you agree that short-term in this case would have to be for the length of time until the NRC comes up with a way in which they are going to dispose of the waste?

Sen. BRADLEY: I am not sure, yes I guess if there is a federal moratorium on any transportation it is going to have to stay on-site under the federal law as well.

Sen. MONIER: Until such time as there is a standard procedure established for permanent disposal.

Sen. BRADLEY: Yes that is a fair conclusion.

Sen. MONIER: I am really not trying to embarrass you Senator with these questions, these are some of the things I am going to discuss later but this is the time to bring them out. For example, thus under the NRC current activity in which they have these things under consideration if we were to pass this bill and the feds at a later time as a result of the NRC studies or whatever as to where they are permanently going to do it, is to make that a different change and we have this bill in law, then we would be in real serious trouble the way the bill is now written because we might have to close or to stop anything that had on-storage sites in the state of New Hampshire, are you aware of that?

Sen. BRADLEY: No that is absolutely wrong. The reason why you need this law despite what the federal law is, is that the federal law can change and could allow for storage within the state unless we have something like this on the books.

Sen. MONIER: At that point, the point that I am trying to get back to is go back to your original statement. If you were to amend the bill to what you had said was the intent it would then be stated that there would be no permanent storage of nuclear wastes in the state of New Hampshire. You would also solve that, would you not?

Sen. BRADLEY: Yes, and I think that is all you are saying here in the bill.

Sen. MONIER: Would you believe Senator that I believe the other is not only much clearer but would have no raggedy ann edges hanging around with respect to what has been going on.

Sen. LAMONTAGNE: Senator Bradley, I am wondering why we need this legislation since we do not have in the nuclear plants in the state of New Hampshire, for what reason do we need this?

Sen. BRADLEY: There are at least two reasons, one is that it is likely that we will have a plant and second, there are already a number of plants around the country that haven't quite figured out where they are going to store their nuclear wastes hence the moratorium that Senator Monier was just talking about. The state of New Hampshire has been looked at as a possible dumping ground for this kind of waste. That is something I want to prevent within our power to prevent

it. That is why and what the house felt when it passed this bill. And I hope the majority of the senate feels.

Sen. LAMONTAGNE: Your particular interest lies in the latter fact that possibly some of these other states might try to ship in their waste material into New Hampshire, is that one of your particular reasons for supporting this bill?

Sen. BRADLEY: Nuclear wastes from other states, yes. Without a bill like this nuclear wastes from other states might end up getting dumped in New Hampshire as well as the nuclear wastes that we generate within New Hampshire, either at Seabrook or coming from the Submarines that may or may not bring their wastes into New Hampshire.

Sen. MONIER: Mr. President I raised a question with Senator Bradley because as I said, since our last debate, I have had some questions not about the transportation per se but the whole bill. I'd like it to be a matter of record and I would like the senators to understand that I agree with what Senator Bradley said that the state of New Hampshire should not become a repository, should not and I say it again so there is no misunderstanding, become a repository for nuclear wastes from anyplace period. I don't believe that is something that is imminent, in danger and I think that the comment that the state of New Hampshire was looked upon as a possible site like other states were, has been used emotionally in this case to bring about this total bill. I therefore cannot support the amendment nor the bill as it now reads. I am perfectly willing to support an amendment not suggested but in a statement of what Senator Bradley says, I think that does exactly what I believe is the basic intent and I thoroughly agree with and I stated that we do not want New Hampshire to become a repository for nuclear wastes. But unfortunately at the present time the procedures for disposing of radioactive materials already must be submitted to NRC for its review. So therefore nobody could store it here at the present time on-site or otherwise without that review permission which they now have for storage on a short-term basis. The disposal must be performed in accordance with the NRC and regulations not to be inimical to the common defense and security of the health and welfare of the people. This is why they are allowed for example, on-site storage of small amounts in current facilities throughout the nation. So at the present time what I am saying, there is no need for this bill the way it is written. If we want to put a bill and I am the



first one to go along with the amendment that New Hampshire will not become a depository for radioactive waste on a permanent basis, I am the first one who will sign the list and I may before we are done with this, offer that amendment. If it therefore does what everybody says they want it to do, that simple statement does it. It does not involve us in all the other kinds of problems. There is current as I said, and I did not know this Senator Bradley and the rest of the Senate, a moratorium on transferring nuclear wastes until final determination is made concerning how it can best be disposed of. Personally I think they have problems as to how it best can be disposed of because I can see 50 states doing exactly what Senator Bradley and I are talking about, in not making our state a depository. And that concerns me because that means short-term may become long-term and then last but not least, I don't want to pass a bill now that isn't a very simple statement of what I have said here and what Senator Bradley said in his statement and then later find that we have a bill that has other kinds of connotations and the federal government has other kinds of connotations and we are stuck with our materials not being able to be moved. That would then in that case close down any nuclear activity or any activity that fits the definition that we now have in the bill. That I cannot support and I do not feel that that is what we are trying to do with this bill. Therefore I would much rather see a very simply statement and I would let Senator Bradley draft it as he said and have it right off the record, that New Hampshire will not and does not want or become a depository for nuclear wastes of the description of the kind that was in the bill on a permanent basis.

Sen. BRADLEY: What other things do you think it says other than you can't store something off-site?

Sen. MONIER: Quite frankly Senator what it does is establish a law while we are still in a process with the federal government under the NRC of establishing what will be the regulations and the federal law on these matters. My question would be we are trying to preconceive what they are going to be. If they are different than ours then we are stuck with that law. If the amendment that I suggested came from you and was satisfactory and that does not give us any more problems that might happen in the future why can't we do it?

Sen. BRADLEY: My question is, you said Senator that if all the bill does is what I say it does which is prohibit storage off-site in New Hampshire you would buy it. But you are not buying it because you think there is other things in it and I want to know what else you think is in there?

Sen. MONIER: Quite frankly I don't think the bill has to say anything but that and I like the way you said it better, that New Hampshire will not approve of storage of this kind of nuclear waste on a permanent basis.

Sen. FOLEY: Mr. President yesterday we passed a bill that we created a commission just to study how to decommission a nuclear power plant after its use was through and we planned on working, having a committee work on disseminating it or after we got through with the nuclear power plant we were planning ahead and I think that all this bill does is plan ahead. If the nuclear power plant becomes and we actually have nuclear power and we have to get rid of the waste this bill will then tell us that you can get rid of the waste, you can take it through the state of New Hampshire but you must not store it permanently in the state of New Hampshire. All we are doing is planning ahead for when the nuclear power plant gets going and I see nothing wrong with it, to me it is a simply bill. As I understood it the only question that we had when we brought it up before was the fact that some people said that under the way it was written you couldn't even take it with trucks through the roads in the state of New Hampshire. And so Senator Bradley has an amendment here so we are allowed to transport it through New Hampshire but not store it here permanently. I read nothing evil in the bill, I read nothing bad, I don't think there is anything behind trees in the bill. It is very obvious what the bill does and I just feel that we should vote on it.

Sen. MONIER: You indicated that we are just trying to plan ahead in case there was a nuclear plant or some similar type of thing. You are aware are you not that waste disposal now under federal law, must be performed in accordance with the nuclear regulatory commission regulations and cannot come under common defense and security.

Sen. FOLEY: Yes you just read it.

Sen. MONIER: The point is that they are also dealing with both the procedures for disposing of radioactive material,

why are we trying to write a bill that says how it will be done when one, NRC must approve of anything that has to be dumped in the future when they come out with it and secondly if the purpose of the bill is to prevent permanent storage of nuclear wastes in the state of New Hampshire. Why don't we just say that in a simple sentence.

Sen. FOLEY: Well I presume because the subcommittee in the house really went into the technical wording that was supposed to be put into a bill of this kind as far as they were concerned, they worked hard and long with some of the people who have knowledge of nuclear waste and they felt that this was the correct wording for the bill. I don't presume to know all that.

Sen. MONIER: Would you recognize though, that while they did all that they seemingly did not know the disposition of radioactive materials as far as the NRC goes.

Sen. FOLEY: I would presume that they realized that but perhaps they didn't think it was necessary to put it in that legislation.

Sen. MONIER: What I am trying to say is that we are planning something which the federal government is already working on and would it not be better to wait till they found out and at the same time protect what our basic thing is supposed to be and that is that we don't want New Hampshire to be a depository for nuclear wastes.

Sen. FOLEY: I don't want it to be a depository either but I want us to plan ahead, I think that is the only smart thing to do.

Sen. ROCK: Senator Foley, I am going to follow up on Senator Monier's question because I am a great believer in the simplistic things like the Gettysburg Address that says all the things that have to be said in about 2 minutes. My question goes to your comment that the house did a lot of work on this and you have great faith in them and they are excellent, is that the same House that sent one of our bills on to the Governor after it was amended and that didn't know enough to send it back here?

Sen. FOLEY: Everyone makes mistakes.

Sen. ROCK: Would you agree further Senator that this is one of the biggest ones that they have made?

Sen. FOLEY: I don't know I would have to study that.

Sen. HANCOCK: There has been a discussion or a question on what the house did on this and if I might I would like to read their commentary. There were three bills originally that dealt with this subject. The first one which Representative Parr and I introduced which is quite simple maybe similar to what Senator Monier has in mind. It says "no person shall dispose or permit the disposal of nuclear wastes materials of any kind within the territorial jurisdiction of the state of New Hampshire or within the coastal jurisdiction of the state of New Hampshire." However there were two other bills and the committee on science and technology did consider all of them and in passing it with the amendment they said that the committee endeavored to keep the issue of radioactive waste disposal separate from the public controversy over the merits or dangers of nuclear power. The highly emotional nature of the nuclear debate made this difficult. But the committee felt that this bill in its amended form addresses some of the main problems which would result if radioactive wastes are disposed of in New Hampshire. To accomplish this the committee set out to find in technical detail the terms nuclear waste and disposal. The issue of radioactive emissions from the regular operation of nuclear plants is not addressed in the amendment for its was clearly demonstrated to the committee that the federal government has primary jurisdiction in this area. However it is not clear according to the attorney general whether federal authority preempts the state in regulating disposal and therefore the bill.

Sen. MONIER: Thank you Senator Hancock. There was one part in there that I would like to have you repeat if you would, over here it is difficult to hear. There was a portion in there which had something to do with purposely exclude, just before the end.

Sen. HANCOCK: The committee amendment definition of disposal purposely excludes the onsite storage of nuclear fuel rods.

Sen. MONIER: That is exactly one of the questions that I just got through talking about earlier. That at the present time under the short range plan which everybody seems to



feel is alright, nobody knows how long that short range is going to be and yet this purposely excludes that kind of storage. Until the federal government through the NRC which is responsible for the regulation of that in putting it together, if we were to pass this bill and they were to suddenly come out and change it later we could stop any kind of activity because you wouldn't be able to store it on-site until such time as it could be transported. I would like personally to go back to your original bill which I believe you said Representative Parr and yourself put in and add the words to it of a permanent nature and then I don't think we would have the problem. Would you do that Senator?

Sen. HANCOCK: I think if we went through that process we probably would end up with no bill.

Sen. Downing moved the previous question.  
Adopted.

#### Amendment to HB 258

Amend RSA 162-H:13-a, III as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

III. Nothing herein shall be construed to prohibit the transportation of any such wastes to points outside the state.

Division vote: 12 Senators voted yea; 11 Senators voted nay.

Amendment adopted. Question of ordering to third reading.

Sen. Monier requested a roll call. Seconded by Sen. Blaisdell.

The following Senators voted yea: Smith, Bradley, Sagiotes, Blaisdell, Trowbridge, Jacobson, Keeney, Hancock, Bossie, Downing, Preston and Foley.

The following Senators voted nay: Lamontagne, Poulsen, Gardner, Bergeron, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, and Brown.

12 yeas      11 nays

Ordered to third reading.

Sen. Bossie moved reconsideration on HB 213.  
Adopted.

Sen. Bossie moved that HB 213 be placed on third reading at the present time.  
Adopted.

Sen. Bossie moved that HB 213 be placed on second reading at the present time.  
Adopted.

Sen. Bossie moved that HB 213, relative to reconsidering an action taken at a town meeting, village district or school meeting district be recommitted to Executive Departments.  
Adopted.

Sen. Healy moved that HB 522 be taken from the table.  
Adopted.

HB 522, increasing the fee for initial number plates from \$5 to \$10 and requiring that initial plates be issued each year.

Sen. Lamontagne moved that HB 522 be indefinitely postponed.

Sen. Brown moved that HB 522 be laid on the table.  
Adopted.

Sen. Blaisdell spoke under rule No. 44.  
Sen. Healy spoke under rule No. 44.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, June 7 at 11:00 a.m.

Adopted.

LATE SESSION  
Third Reading and Final Passage

HB 217, relative to tuition for foster children and relative to providing liability insurance for individuals providing foster care.

HB 537, relative to licensing pet shops and certain animal shelters.

HB 726, relative to local approval for the development of any public airport.

HB 1149, relative to the preparation of a town budget under municipal budgets for counties, school districts, and village districts.

HB 1153, relative to reporting audit findings in summary form.

HB 644, relative to the definition of subdivision under the planning laws.

HB 1173, relative to cemeteries.

HB 286, relative to the appointment and qualifications of the fish and game commission and providing for the appointment and removal of the executive director of the fish and game department.

HB 498, relative to the state's burden of proof in recommittal hearings for the criminally insane.

HB 352, relative to the recording of agreements resolving boundary disputes in those registries recording on microfilm.

HB 448, relative to retirement benefits for judicial referees.

HB 678, relative to the sale of property in settling estate.

HB 777, relative to unfair, deceptive or unreasonable collection practices.

HB 847, repealing provisions relative to depositing wills with the register of probate.

HB 857, eliminating the need for legal seals on summonses, subpoenas, deeds and conveyances.

HB 802, relative to the system of birth registration.

HB 258, restricting the disposal of high level nuclear wastes in the state and within the coastal jurisdiction of the state.

Adopted.

Sen. Bradley moved reconsideration on HB 258.

Motion failed.

Senator Rock moved to adjourn at 3:30 p.m.

Adopted.

## *Tuesday, June 7*

The Senate met at 11:00 a.m.

A quorum was present.

The prayer was offered by Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord, we often times wonder what You think of us—as we are swayed this way and that like the wind—and sometimes are guilty of not making the right judgments which are helpful for all.

Therefore, Lord, we humbly beseech Thee to help us overcome these deficiencies and cleanse us with Thy Holy Spirit—making us Thy humble servants; grateful for gtmhh help and inspired in a newfound fellowship together!

Thank You Lord!

Amen

Sen. Poulsen led the Pledge of Allegiance.

Sen. Hancock served notice of reconsideration on HB 97.

### ENROLLED BILLS REPORT

HB 109, relative to state songs.

HB 199, relative to the licensure of occupational therapists.

HB 315, permitting trustees of trust funds of towns to hire or employ trust departments of banks to assist in the management and investment of trust fund resources.

HB 332, requiring records relative to meals and rooms tax to be kept by each operator for a 3 year period.

HB 384, to reclassify a certain section of highway in the town of North Hampton.

HB 475, providing for payment of a claim to Charles R. Sargent of Laconia and making an appropriation therefor and relative to the payment of small claims by the department of public works and highways.

HB 702, relative to vicious dogs or dogs as a nuisance.



HB 711, eliminating the requirement that town clerks send reports to certain state societies.

HB 717, relative to loan pay-back requirements for resident veterinary medical students.

HB 836, relative to taxation of residences in industrial or commercial zones.

HB 859, relative to prohibited collateral under the small loans law.

HB 900, authorizing cities and towns to discontinue public highways subject to existing utility easements.

HB 1015, relative to the liability of veterinary board and engineers board.

HB 1029, adding exceptions to the licensing of child caring and child placing agencies.

HB 1047, relative to overtime pay for employees of nursing homes.

HB 1054, relative to the distribution of legislative budget post-audit reports.

HB 1148, relative to state public assistance programs.

HB 1163, legalizing the 1977 annual town meeting of the town of Exeter.

HB 102, prohibiting the removal of serial numbers from certain products and changing the penalty classifications for theft.

HB 621 relative to the placement of children in licensed facilities.

HB 667, regulating recreational campgrounds.

SB 141, prohibiting the use of minors in pornographic acts, pictures, displays and the sale or custody of any such material in the state.

SB 158, relative to closing of state liquor stores on Christmas eve and New Year's eve.

SB 196, repealing the requirement that prescription drugs be kept in their original container.

SB 247, relative to the limitation on receiving assistance from the federal government and the state for sewage disposal facilities.

SB 248, relative to the taking of alewives and river herring.

SB 255, relative to female lobsters.

SB 314, permitting the assembly and voluntary participation of public school pupils in the free exercise of religion during a 5 minute period before the start of the official school day.

**SB 287**, amending the state operating budget and making an appropriation therefor.

**HB 922**, relative to property tax exemptions for real estate equipped with wind-powered energy systems.

**HB 969**, establishing a bureau of community living in the office of the director of the division of mental health.

Sen. Lamontagne for the committee.

## COMMITTEE REPORTS

**HB 387**, establishing the police standards and training council training fund to consist of penalty assessments imposed in certain criminal cases. Ought to pass. Sen. Brown for the committee.

Sen. BROWN: Mr. President, this sets up a fund to support the training of the police standards and training council and also support the police academy. It does so by a 10% levy on all fines except parking fines. The 10% tops and no less than \$2.00. That is how it is funded.

Sen. BOSSIE: Senator I find this intriguing that they are going to put on a 10% penalty on criminals. Well, what incentive say for somebody who is arrested for murder and who is going to jail for life, have to pay \$2.00 charge or 10% of his \$10,000 fine.

Sen. BROWN: The way the bill reads Senator there is a fine connected to it. Makes no difference what the violation or misdemeanor is except for parking violations. That is the only exception. If there is a fine connected to it then by this bill he will be charged at 10% of that fine which will be in turned returned to the police standards and training council fund to support the academy and the training process.

Sen. BOSSIE: Is this in any way going to endorse the concept of changing the new building we have, the Christian Science Home into a police academy?

Sen. BROWN: Senator there is nothing in the bill stating about what they plan to do with the academy, whether to rebuild it, leave it as is; there is nothing whatsoever pertaining to that.

Sen. BOSSIE: How much money would be realized from this sort of thing.

Sen. BROWN: It was stated that each year there was

\$3,449,000 collected in fines in one year and based on the estimates according to this bill, they estimate it to be in the vicinity of \$300,000 per year which would be reverted to this fund.

Sen. BOSSIE: I understand Senator that a number of other bills are going to do additionally what this bill does. Instead of funding something in a positive approach whereby the state would appropriate a certain amount of money, what is happening here is that they are going through the back door, they are approaching the penalty aspect. I might also point out that this proposed ASAP program that we hear and read so much about that would be tacked onto the bill later on this week. That is how they intend to get funded too, to add on to the charges. Now isn't that really a bad procedure to adopt?

Sen. BROWN: The only way that I can answer is if you remember last week there was a similar bill attaching \$5.00 surcharge for fines to support another program. If you recall I questioned Senator Bradley on it when he reported on the bill. It was referred to finance.

Sen. BOSSIE: What was that do you recall?

Sen. BROWN: I cannot give you the subject matter now but I did question Senator Bradley.

Sen. BOSSIE: Would I be correct in stating and Senator Healy might be interested in this, that is a method to finance pensions of probate judges, to tack on a \$5.00 fee for filing accounts.

Sen. BROWN: You may be right I don't recall.

Sen. MONIER: This bill has been someplace or another for two or three years two or three different times. The principle behind it is that most of the police standards and training has been carried or initiated under an LEAA grant and other forms of that nature. Either we have to cease it eventually or we have to pick it up under the General Funds. It was felt and this has been put in many times, it was felt better to allow the court through those convicted unclear, to provide the funds for this sort of thing. It seems best and I strongly support it, it seems best to have that kind of an establishment where we are making it a pay-as-you-go type of thing, particularly from those that we are protecting ourselves against.

Sen. Bossie moved that HB 387 be laid on the table.  
Adopted.

HB 615, relative to interest charges charged upon all taxes other than resident taxes not paid on time. Ought to pass. Sen. Poulsen for the committee.

Sen. POULSEN: This bill that we have is not exactly right, the house amended it and the amendment is in the house calendar on page 2075 and 76 if anyone is lucky enough to find it. That changes it in that the interest on late taxes. When bills are sent out late it gives a 30 day grace period after which their tax is rated 9% , any amount less than \$1.00 can be discarded by the tax collector with the permission of the selectmen and the board of assessors. The 30-day period is figured from the date of the last bill being mailed out. It just sets up the procedure and I think it was good bookkeeping and the date that they finally decide on has to be sent in to the tax commission for their notification.

Adopted. Ordered to third reading.

HB 863, relative to certified copies of certificates of registration. Inexpedient to legislate. Sen. Brown for the committee.

Sen. BROWN: Mr. President, the intent of this bill is in the lower right hand corner of your motor vehicle registration certificate. It is put in there through CDP computer system. The date the original registration was issued, the original registered number or mark and maker's list price on which the municipal permit fee is based. There is no appropriation in the bill. The CDP came in and testified that to make this function it would take four added people within the CDP to do it and a thousand transfers per day and 5 thousand per week during the course of the year. The CDP estimated it would cost \$7,162.50 and because there is no appropriation it couldn't be done and so therefore the committee feels it should be inexpedient to legislate.

Adopted.

HB 902, to specify criteria to be used by board of taxation in reassessments of municipalities. Inexpedient to legislate. Sen. Brown for the committee.



Sen. BROWN: Mr. President, the intent of this bill is a criteria for ordering reassessments of communities. And there is the criteria in the bill by procedures. I contacted the Bureau of Taxation and they said they were presently doing these things now and it was a duplication of effort and therefore the committee felt that the bill was not necessary and therefore the committee report was inexpedient to legislate.

Adopted.

HB 995, relating to the disposition of personalty in police department property rooms. Ought to pass. Sen. Brown for the committee.

Sen. BROWN: Mr. President under the present law if a police department police officer picked up a child's bicycle because the kid couldn't find it or anything or any contraband such as that and it is not involved in any kind of court proceedings the present law they have to keep it in their possession for seven years. This bill changed that so they have to keep it 180 days only and then if the owner is not found it will be auctioned off and the money received will be reverted to the town treasurer.

Sen. BOSSIE: Senator would you advise what the House amendment does to the bill?

Sen. BROWN: They cut it down to 90 days. The original bill read 90 days and the House amended it to read 180 days.

Adopted. Ordered to third reading.

HB 1045, relative to the display of wheelchair symbol to indicate buildings accessible to handicapped and elderly persons. Ought to pass. Sen. Brown for the committee.

Sen. BROWN: Mr. President, apparently at the present time there are some buildings using the wheelchair symbol that really are not accessible to the handicapped. This bill was requested by the governor's commission on employment to the handicapped so they will control these symbols and they will check the building to see that it is accessible to the handicapped before they can display the symbol. That means

ramps, elevators and so forth. The architectural design of the building for the handicapped.

Adopted. Ordered to third reading.  
Sen. Monier in the chair.

HB 725, removing the requirement for filing financial statements with town or city clerks. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: Mr. President, HB 725 is a very simple bill. In the statutes at the present time there is a requirement that any candidate for political office in a primary or biannual election who spends in excess of \$200 that he file a financial statement with the secretary of state and the town and city clerk. It has been discovered that most candidates do not file those statements. In fact many town and city clerks are unaware that they should be filed. It has been suggested and this is what this bill does, is eliminate that requirement so that you file with the secretary of state as everybody has been doing and that is all that house bill 725 does.

Adopted. Ordered to third reading.

HB 724, prohibiting the posting of election advertising on highway rights-of-way. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This is another very simple bill. The present presiding officer had a bill in, regarding restricting political advertising. Questions were raised with regards to the highway right-of-way. If you remember, in the last primary election and probably the the last biannual election along route 4 from Concord to Durham, there were a lot of political signs in the highway right-of-way. What this bill does is it prohibits political advertising in highway right-of-ways of the state. That is all that this bill does.

Sen. PRESTON: Senator I know a zealous supporter put two of your signs on the right-of-way, are you as a candidate responsible for this violation?

Sen. JACOBSON: The normal pattern is that the candidate is responsible. Of course I am sure, the law says knowingly violates the law. That is what the overall statute is so if

one of your zealous supporters places a sign in Exeter and Hampton and you didn't know about it you would not then be subject.

Adopted. Ordered to third reading.

HB 140, eliminating the requirement that at least one city or town intervene between an absentee voter and the place in which he is legally entitled to vote. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This bill does one simple thing. The present statute says that at least one town must intervene between the voters place and the place he is on election day in order to enjoy an absentee ballot. As far as I know there has been no enforcement of this present statute. And what it does is it removes that intervening town so that you may go to the next town on election day and still be eligible to vote. That is to the next contiguous town to your own town or city.

Sen. BOSSIE: If I were in the hospital on the day of election, under present law, I couldn't vote by absentee, is that the status of the law?

Sen. JACOBSON: No, if you are physically incapacitated that is another portion of the law.

Adopted. Ordered to third reading.

Sen. Monier recorded in opposition.

HB 899, relative to reporting vote totals by party for nominees of more than one party. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: Under the present statute, the candidate for office receives the total for which he has been nominated and if he happens to be also of the opposite parties ballot by accepting nomination, or as an independent, he will receive also those totals. What this bill does it also adds a requirement that the total of all the totals be totalled up and that total be given as well.

Sen. BOSSIE: Right now is it my understanding that say if you are unopposed and from each town they will have Republican and Democrat and you would get the Republican

and if you have write-ins or if it is final election and your name should be there they would have to figure it separately and together, is that what this says?

Sen. JACOBSON: At the present time if I were running for office and I am the candidate of the Republican party and I am either a write-in or I have received the nomination also for the Democratic party, the moderator announces the total for the Republicans and he announces the total for the Democrat and he announces the total for the write-in. What this section adds is he also announces your total of your totals.

Adopted. Ordered to third reading.

HB 478, relative to the governor issuing a certificate of election. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This bill corrects a problem that arose in the Durkin-Wyman election where first Mr. Wyman received a certificate then Mr. Durkin received a certificate of election. What this bill does is that it prevents the Governor from issuing a certificate of election until all recount and appeal have been completed so that there will be only one certificate of election issued.

Sen. PRESTON: How long a time could that possibly be for recount and appeals?

Sen. JACOBSON: Once the recount process has been asked for then I would have to check the statute but that is within ten days of the official announcement. If there is no action for recount then the certificate can be issued. But once the recount has been asked for then it would take quite a while depending upon how long the recount took, appeals to the ballot law commission even appeals to the supreme court on matters of law.

Sen. PRESTON: It is conceivable then if you carry this on for two years in appeals we could be without a representative.

Sen. JACOBSON: That is unless the candidates have waived in writing a recount or appeal.

Sen. BOSSIE: To follow up with what Senator Preston asked you this says that the governor shall not give a certificate of election until the time for any recount has passed and also any appeal to the ballot law commission has expired. It does not say any appeal to the supreme court after that.



Sen. JACOBSON: But there is a section in the law which say that you can appeal again the decision of the ballot law commission on the questions of law.

Sen. BOSSIE: So that we may have legislative intent here for our supreme court would you tell us whether you intend in here that the appeals include any appeal to the supreme court from any decision of the ballot law commission or otherwise?

Sen. JACOBSON: I would say that the intention of this legislation is not to issue a certificate of election until such time that all matters have been cleared including any appeals from any ballot law commission decisions.

Sen. PRESTON: Would one be possibly frivolous under this bill, that if he lost by an amount within the parameters established and it was very clear after the recount that he had lost and he still pursued an appeal is there any way he could abuse this process and procrastinate, prohibit the Governor from issuing this certificate.

Sen. JACOBSON: It is perfectly possible that he could lose be 100,000 vote and still ask for a recount. But he has to pay for it as I understand the law and I want to check that and make absolutely sure.

Sen. PRESTON: I guess my question would then be if someone was frivolous enough to procrastinate and actually prohibit his opponent who had beaten him from serving possibly a year out of a two year term in Congress.

Sen. JACOBSON: The statutes, 59:94 it says, "that no person shall be entitled to recount upon his own application unless the difference of the votes cast for him and the votes cast for his closest opposing candidate, will receive sufficient votes to be declared elected, shall be 1% or less of the total votes so cast for such office or for such candidate. If such difference is greater than 1% the application of a person shall require payment with the secretary of state of the applicable fee as provided by RSA 56:59. The number of signatures of qualified voters as provided by RSA 59:97a and shall be in the same manner and form as provided by RSA 56:65." He is required to pay the full expense of the recount if it is beyond 1%.

Sen. PRESTON: Would you feel that this could be abused by some one who wished to procrastinate through these processes? Even though he was denied an appeal through the ballot law commission and wanted to continue on to the

courts. That we could be without representation under this law as it is written or is there a roadblock of a sort, so someone could make a determination and say there is no right to appear before the ballot law commission, it is very definite that he has lost by x number of votes.

Sen. JACOBSON: An appeal could be made to the ballot law commission after the recount and then the ballot law commission of course could deny it or accept it.

Sen. PRESTON: In the event that they deny it this candidate can still proceed to go to the supreme court?

Sen. JACOBSON: Yes they can go to the supreme court on the basis of law not of facts.

Sen. PRESTON: As a result of this legislation, the Governor would then still be prohibited from issuing a certificate unless he pursued the court processes?

Sen. JACOBSON: Yes because the intention of this legislation as I understand it and conceive of it is that we shall not have the kind of thing we have in the Wyman-Durkin affair. So until all questions are settled no certificate will be issued.

Sen. HEALY: I rise in support of this bill because this bill produced some embarrassing situations in the past. For example, in the Wyman-Durkin election Durkin was given a certificate that he won the election, it was signed by the Governor, it was brought to Washington, C.D. A little while later the governor went out to Washington D. C. and wants the certificate back that had already been submitted to the election board of the United States Senate, which is rather embarrassing to the Governor. Now whether the Governor be a Republican, Democrat or an Independent, these things can be very touchy. On my own case I had a recount. I did not receive a certificate after my election, my certificate did not come through until after the recount which was only proper and right as far as I am concerned. I would hate to feel that I had received a certificate of election and then found out later on that I was not the qualified representative of the people so I think this thing really, I think perhaps finality would perhaps be the word. After an election has been completed and everything is solved and the person involved and if he is elected he should receive a certificate that he has been so elected by the people and that is my thinking on that bill.

Adopted. Ordered to third reading.

HB 22, establishing a recount procedure for votes at special meetings of towns with official Australian or nonpartisan ballots. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: At the present time, any ten voters before the expiration of fifteen days may appeal to the town clerk for a recount of a ballot given at an annual town meeting on questions that appear on the Australian ballot. They pay a fee of \$10.00. What this bill does is add the words "or special meeting". That is all this bill does. If for example you had a series of zoning amendments at a special town meeting a recount could be asked for on those questions.

Sen. HEALY: Senator Jacobson the question that I am going to ask you does not pertain to this here but it does pertain to a special election. I wonder if you could tell me the answer. For example, last night we had a special election for a representative of party caucus held in Manchester and there wasn't very much of a turnout. In fact only 24 turned out but from what I understand there is a limitation, at least ten people have to vote at a special election at a caucus. Now in case ten people show for a vote what is the procedure?

Sen. JACOBSON: I can't answer your question. All it says is that the polls have to be open and the checklist should be used.

Sen. HEALY: In a case like that, a parliamentary case or an election case would the executive committee be authorized to name the candidate?

Sen. JACOBSON: I don't believe so.

Sen. HEALY: Or would they have to have a second election?

Sen. JACOBSON: I find nothing in here about the executive committee, all they do is fix the time for the polls to be open.

Sen. HEALY: You're thinking that it would be pretty much up to the party committee to make the decision on who the candidate might be?

Sen. JACOBSON: No they only set the polls but this question does not deal with that at all. It only deals with questions that relate to a special town meeting.

Adopted. Ordered to third reading.

HB 456, providing for the preparation of an election procedure manual and making an appropriation therefor. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This is an important piece of legislation though it is basically a very simple piece. What it does, it provides for an election manual that would be the companion piece to the election laws which is this booklet which is issued every two years and the secretary of state would be empowered to take the election laws and place them as was testified in layman's language. If you have seen the selectmen's handbook which is an explanation of towns and municipal law it would be a companion piece in that way. These are the actual statutes which are oftentimes written in obtuse legal language and this election handbook would reduce that down into ordinary english so that all of us would be able to understand what the election law procedure is. There is an appropriation of \$7,500 so that this bill will go to Finance.

Sen. HANCOCK: Mr. President, members of the Senate, I certainly concur in Senator Jacobson's and the committee's decision in this matter. I attended a meeting of Representative Conley's statutory revision committee in which he invited members of supervisors of the checklist, moderators, selectmen and other town officials. One of the things that they most ardently desired to have was this handbook in which statutes and an interpretation thereof could be set forth in clear and concise language and I certainly think this is a tremendously important handbook to have.

Referred to Finance under Rule No. 24.

## INTRODUCTION OF GUESTS

HB 1187, increasing the jurisdiction of the ballot-law commission. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This bill does two things. At the present time the ballot law commission can take only appeals that relate to recounts. What HB 1187 does is extend their power to investigate and to be the jurisdiction with regards to disputes and violations that are of a non-criminal nature with respect to New Hampshire election laws. The second thing it



does, it speaks to the appeals pattern that Senator Preston questioned about. It allows appeals on law from the ballot law commission only in the cases of governor, the executive councilor and city and ward elections. It does not allow for an appeal for election to congress, to the United States Senate or to the New Hampshire House of Representatives or the New Hampshire Senate since in those instances, in the federal constitution and in the state constitution the final judges of whether a Senator or a Congressman or a State Senator or a Representative in the House will sit or not belongs by constitutional authority to that branch so that there would be no appeal for the legislative offices, either national or state.

Sen. BOSSIE: Mr. President I rise in favor of the committee report and as you know I am perhaps the only Senator in this body who has served on the ballot law commission and I have done so for three years. It is also very interesting that I appeared this past year as an attorney before the ballot law commission representing an individual who sought high public office and the ballot law commission at that time and frankly I knew it, said that they didn't have the jurisdiction in a case in which there was alleged to be a straw candidate who was put up to it by one of the other candidates. In fact there was an allegation that was made that one of the other candidates paid for the other's filing fee. This I think will be a proper amendment to the law so as to permit the ballot law commission to go into that sort of thing even though it may have been of a criminal nature, the acts involved in this particular case, the ballot law commission would at least have had the authority to look into it and also to call upon the attorney general who by the way is one of the three members to take whatever action they should deem necessary. It seems like an appropriate piece of legislation.

Adopted. Ordered to third reading.

HB 1172, relative to the filing dates for candidates in the primary for any elective office. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This bill relates to the time when people file for office in the biannual elections. At the present time those of you and all of you that are members of the

senate and have gone through this process you file sometime around July 4th and about 10 or 12 days afterwards. What this bill does it moves the filing period up to in such a way that it is completed by July 1. Secondly it increases the filing period from the present two weeks to three weeks. Those are the two things that it does.

Sen. BOSSIE: It has been alleged in the back row that all this does is to permit your opponent to march in the fourth of July parade. Is that true?

Sen. JACOBSON: That testimony was offered at the executive committee it is the July 4th marching day.

Sen. BOSSIE: Tell me, we have heard the bill, but why, what is the benefit that the people in New Hampshire should get, anyone who is going to run for high office knows that they are going to run, how will this dispose of justice in a better way?

Sen. JACOBSON: I don't believe that the enhancement of justice is integral to this bill. However it was argued that most people like to go on vacation in July, July the 4th comes along and everybody wants to celebrate and therefore it was felt that it would be accommodating to all candidates high and low to have the period of registration prior to July 1 and extend the filing period one week.

Sen. Bossie moved that HB 1172 be indefinitely postponed.

Sen. BOSSIE: Mr. President up until now all of the bills that have been brought out by the election law special committee have been fine. I really see no value in extending the period for which one would file his or her candidacy by a week. If there was some valid reason other than that somebody is going on vacation then I probably would be disposed to vote for it. But if they are too lazy to even delay their vacation so they can serve in an elected capacity I don't see their value to the state of New Hampshire. I am sure that the sponsors are sincere about the bill but I really can see no value from what I have heard so far. I would ask that the senate to do what is proper with this bill and indefinitely postpone it.

Sen. JACOBSON: Mr. President, I am not going to rise in opposition or in favor of the motion. However, I think if we are going to have a debate on the question then I think that

the full Senate should be present and I would like to yield to Senator Brown who will make a motion.

Sen. HEALY: I'll yield to his proposal because I just wanted to speak on the bill.

Sen. Brown moved that HB 1172 be laid on the table.  
Adopted.

HB 266, relative to meetings of supervisors of the checklist in cities and towns. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This bill relates to the supervisors of the checklist and it does one very simple thing—it requires that their be evening meetings prior to either a primary election or a biannual election so that those who cannot come to the supervisors of the checklist in the daytime will be able to in the evening. It will require that the supervisors of the checklist hold a meeting for at least two hours between the hours of 6 and 9.

Sen. BOSSIE: Senator would you advise the Senate what the status of that bill is that would permit the town clerk to accept applications to register to vote?

Sen. JACOBSON: I believe that is senate bill 1 and that has passed and been signed into law if I am not mistaken, let me check to make sure.

Sen. BOSSIE: Senator would you be so kind as to consider that bill as an interplay with this one and what the effect on both will be?

Sen. JACOBSON: The bill that has already passed the Senate and I believe is now law allows the town clerk to take in the registrations which are then forwarded to the supervisor of the checklists and when they meet they add the persons to it except that they should find some reason that they shouldn't be qualified.

Adopted. Ordered to third reading.

HB 755, relative to the marking of ballots in elections held in the state. Inexpedient to legislate. Sen. Jacobson for the committee.

Sen. JACOBSON: This is an interesting bill. It requires that on every candidate that an x or a checkmark and nothing else be placed on the ballot so that if there were some other mark other than x or check that ballot would be invalid if this were to become law. Now testimony was offered that particularly our younger voters are used to filling in the space when they take computerized exams and a lot of other people are also becoming more and more used to filling in the space. In fact in participating in the recount for Senator Healy's election I found there were a number of those who filled in the entire space with a pencil. A clear mark of who they wanted for a candidate. The court has held that as long as the intent is clear that that vote should be counted and therefore the committee felt that there was no real reason for making it as stringent as this law proposes.

Adopted.

HB 67, requiring that candidates for a given office be listed on the ballot in random order, rather than alphabetical order. Inexpedient to legislate. Sen. Jacobson for the committee.

Sen. JACOBSON: What this bill would make possible is for example in the town of Salem, which I think has eleven or thirteen candidates, eleven, it would mean that each of the eleven candidates and in a primary it could be an infinite number of candidates would have an opportunity to have their name at the top of the list. The secretary of state appeared in opposition to this bill. He said it would create a tremendous problem. I don't have my illustrated lecture, I left it up there with the little plates that I showed the committee, but there are six or seven little pieces of metal that go with every name and there is what is called a chase in which these are locked in and you would have to change all of these six or seven little plates the number of times that there are candidates and it would multiply the work of the secretary of state's office infinitely by doing so. Furthermore it was testified that even if you did that and they were stacked on top of each other the ballot goes on the bottom part may not be actually used anyway and therefore that little small percentage of candidates would not have the opportunity to have their name at the top. After consideration the committee



voted that this bill was inexpedient, that it did not really further the public interest.

Sen. BOSSIE: Mr. President, I rise in support of the committee report inexpedient to legislate. I think the remarks of Senator Jacobson are well thought out. I would just like to point out to our sister state of Massachusetts where not only is it a question of alphabetical order but what they do down there, is that the incumbent is always listed first and I understand in certain instances their full name is capitalized, interesting especially where competition is always listed after. It is either capitalized or an asterisk after the name to indicate they are incumbents. I think this is fair and I agree with Senator Jacobson.

Adopted.

Sen. Jacobson in the chair.

HB 487, relative to the publication of the Revised Statutes Annotated. Ought to pass. Sen. Monier for the committee.

Sen. MONIER: This is a funny bill. The truth of the matter is that two years ago, and I hope I am correct, in the budget of the last biennium we set aside some money for legislative services to revise the statutes annotated for use of all the departments and for all of legislation and so forth. The truth of the matter was that we specified in it that they would only revise a particular volume. I think it was volume 5 but I could be wrong on it. Anyhow either through efficiency or by chance or circumstances of item 5 or volume 5, the legislative services has an additional somehow \$20,000 and wishes to revise two other volumes. One of them is volume 3 and I cannot remember the other one. But it is one that has had a lot of changes since the last session. He cannot however utilize these funds at the present time. They are under legislative control and would not revert etcetera or back to the general fund. As a result he has come in with this very simple bill authorizing him to use the money already on the books thereby saving us some money to revise the other two volumes for purposes of the revised statutes. The amendment also did authorize him to utilize them for volume 3 and any other RSA's that were necessary as approved by the legislative fiscal committee and the legislature.

Sen. BOSSIE: I wanted to inquire of the chair there are no

amendments listed for the bill. Would the chair assure me that this is in the amendment in the House?

The CHAIR: The amendment says that these were the re-compilation of 2, 2A and 2B and such other volumes of the revised statutes annotated as shall be approved by the joint committee on legislative facilities.

Sen. MONIER: So if I may just reply to that again Senator Bossie. He is not being given carte blanche he must go back to legislative facilities but he did add the volumes that he felt now he could do within that price.

### SUSPENSION OF RULES

Sen. Bossie moved that Rule No. 24 be suspended in respect to HB 487.

Adopted.

Adopted. Ordered to third reading.

HB 326, adopting the provisions of the uniform vehicle code pertaining to the operation of emergency vehicles. Ought to pass with amendment. Sen. Gardner for the committee.

### Amendment to HB 326

Amend RSA 262-A:7, III as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

III. The exemptions herein granted to an emergency vehicle shall apply only when such vehicle is making use of audible and visual emergency signals or when an emergency vehicle is in pursuit of an actual or suspected violator of the law.

Sen. GARDNER: The bill does just what Bill read and the amendment in section 3, it changes the wording and it is done for the simple reason they don't want these people that are responsible for driving the vehicles to do it unnecessarily and it spells out here. It wants to prevent them running through towns with sirens going and passing people in a hurry when it is not necessary unless they are going to an actual emergency or in a pursuit of a suspected violator. It prevents them from having a good time.

Amendment adopted. Ordered to third reading.

Recess.

Out of Recess.

Sen. Monier in the chair.

Sen. Jacobson moved that HB 1172 be taken from the table.

Adopted.

HB 1172, relative to the filing dates for candidates in the primary for any elective office.

Sen. JACOBSON: This bill was moved ought to pass by the elections committee, Senator Bossie moved that it be indefinitely postponed and because of his motion it raised a question of controversy and it was laid on the table so it could be debated with the full Senate here. So that every member of the Senate might know what the bill does, it changes the filing date so that filing for the biannual election and specifically for the primary will take place and be completed by July 1. That is the first thing it does. The second thing it does is extend the filing period from 14 days to 21 days so that you will start filing approximately around the 10th of June and ending by the first of July where at the present time you start around the first of July and you end around the 14th of July. The committee reviewed this and felt that it was a reasonable proposition. Senator Bossie however took a different position and thus we have the debate and we thought that the full Senate should be present to hear it.

Sen. SANBORN: Senator this HB 1172, wasn't it true the secretary of state wanted this, it gave him more time to get ballots printed and so forth, a problem that has been his in the past?

Sen. JACOBSON: Yes that is another reason for the bill, that is that it would give the secretary of state's office greater leadtime in developing the ballot. At the present time they are under a very heavy pressure so the net result would be that information in published form as to who are the candidates would be available at an earlier date.

Sen. BOSSIE: Thank you. Mr. President I appreciate the words of Senator Jacobson, it was well balanced. I am afraid that my statements will not be as well-balanced because I don't favor the bill, it is not a big bill and frankly if you

should pass it there is no problem but I want the Senate to be aware of what the discussion was when we first discussed the bill. Basically, discussion in the back row had it that the bill permitted people who were going to run against incumbents to march in a July 4th parade and what actually was said was that there are a lot of people who apparently go on vacation during the first week of July and since they won't be around for those two week period that they should have it in June. Well I think that is ridiculous. By serving say in a body such as the Senate or the House you are going to really confuse your vacation period. So anyone who is disposed to run for an office such as this would really have to consider everything being equal, would have to consider that gee, they might not have a vacation for a while. So if they aren't available to sign up during the first two weeks of July then why should we really consider them at all, if they can't make it for then how will we know that they'll make it for the entire six months of the next year. It is ridiculous. It allows an extra week and as Senator Sanborn said one of the few vital things is to allow the secretary of state a little more time. To my knowledge, nothing has been indicated which would show this is an election reform. How is this a reform? It is a regression. To allow more time for the campaign, enough time now is available for primary—you have two full months. And frankly in my area or any area and I don't necessarily favor incumbents, I think that there is no need for this bill. So I ask you to join me in voting it inexpedient.

Sen. ROCK: I have two questions Mr. President. Question number one, Senator I understood most of what you said, there was a word that you spoke about that I don't understand, what is a vacation?

Sen. BOSSIE: It is something that people who have a lot of time on their hands and can relax, it is something a politician has very little of.

Sen. ROCK: On a more serious note, Senator Bossie, am I not correct in saying now that the federal regulations governing access to broadcast media deal with a period of 45 days before a primary, 60 days before a general election, wouldn't you think if it is enough time for that it is enough time for this also?

Sen. BOSSIE: I certainly do Senator.



Question of indefinite postponement.

Division vote: 6 Senators voted yea; 14 Senators voted nay.

Motion failed.

Adopted. Ordered to third reading.

HB 127, requiring proof of residency in order to register and to vote. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This bill establishes the criteria for proof of residency and there are three basic plus a catch all. One, birth certificate, two, naturalization paper, three, proof of residence in some form subscribed to by an affidavit or any other evidence that may be requested by the supervisors of the checklist. Now what this does is if the supervisors of the checklist have a question as to whether these persons are in fact residents of the town or the ward then they have this statute on which to rely and it also provides that the city clerk will have the same prospect for requirements of evidence.

Sen. BRADLEY: The bill has been amended?

Sen. JACOBSON: The bill has been wholly amended, you may look at it here Senator.

Sen. BRADLEY: One of the things that the supervisors may require is any evidence they may request and then they may refuse to add the name if you don't give that evidence. Isn't that giving them too much discretion, they could ask for the family Bible or Why should we have that kind of open-ended provision, I am referring specifically to subparagraph d there.

Sen. JACOBSON: I don't believe they could ask for the Bible because that would be a violation of one of the federal constitution, we can make no law requiring religion.

Sen. BRADLEY: Well I agree it might be unconstitutional and I guess that is my concern, why should we vest in them total discretion at least on the face of it as to what they may require.

Sen. JACOBSON: That question did not arise in the hearing and it is assumed that there would be a rational procedure with respect to this and I believe that there is also a procedure for appeal in another bill that is coming along which would be an immediate kind of appeal.

Sen. BRADLEY: Well then for the sake of legislative history it is clear then what you are talking about is evidence

such as a residence tax receipt bill or a property tax bill or something like that that would be direct, relevant proof at least on the subject of residency.

Sen. JACOBSON: It is the committee's intention that the legislative intent is that it would be some precise documentary evidence that would clearly establish residency.

Adopted. Ordered to third reading.

HB 1186, relative to legal voters. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This bill is RSA 54:1 expanded. At the present time 54:1 says "every inhabitant of each town being a citizen of the United States of the age provided for in Article 28 in the second part of the constitution of New Hampshire shall have a right at any meeting to vote in the town in which he dwells and has his home. What this bill does, it expands upon what is one's permanent dwelling and domicile. Establishes as a factual, physical presence incorporating an intention to reside for an indefinite period. The net effect of it is to establish a principle residence and from that place and that place alone he may be entitled or she may be entitled to vote.

Sen. BRADLEY: Is this intended in any way to change the existing law?

Sen. JACOBSON: The intention of this legislation according to the testimony offered was to make absolutely clear what was the permanent and principal residence of a person. It did not change the basic entitlement of voting but along with the basic entitlement of voting it establishes the question of permanent and principal residence.

Sen. BRADLEY: This bill has not been amended.

Sen. JACOBSON: No.

Sen. BRADLEY: Last sentence of this 54:1. Does this mean that if I live 7 months of the year in Florida but want to call New Hampshire my home because it has always been my home, then I am not going to be able to do so?

Sen. JACOBSON: No. It doesn't mean that. That issue was brought up, I think that people on governor's island, it was brought up and it does not mean that. If they have established that as their principal residence, what it is concerned about are people who in fact live and work in Massachusetts

or a neighboring state and may have a summer place in New Hampshire and want to establish for some purpose or other a voting residence. Those persons may fall into the net.

Sen. BRADLEY: Again, that last sentence. In order to vote, I have to dwell, have a domicile for a greater portion of the year in, which is to me more than six months, I have to dwell and have a domicile in a particular town if I want to vote there, I read that to say that that means that I have got to be physically living there.

Sen. JACOBSON: That question was brought up as I said and the response to that question was that probably in all cases those persons to which you have reference have already established their residency long ago and there is a companion piece, 1184, that correlates with this on absence.

Sen. BRADLEY: I go back to my first question just to nail this down. Am I correct, it is the legislative intent of this to simply spell out in greater detail what the existing law is with respect to legal domicile?

Sen. JACOBSON: The intent of this legislation is to define more precisely what is domicile so that there be no abuse of it.

Sen. BRADLEY: But what concerns me is that if this is simply to clarify and put into the statute what existing law is that is one thing but if this bill is going to change the existing law as it has been defined by courts and cases then I want to be clear as to how it is changing.

Sen. JACOBSON: Well Senator in response to your question, it is not clarifying existing law, I think what it is doing it is codifying existing customs.

Sen. BRADLEY: It is clear that we are not going to change the determination of legal domicile for the purpose of voting to simply adding up the number of days that a person has been physically present in a place and make that the determinant?

Sen. JACOBSON: No. Let me further say that to use our Florida example, let us suppose that people living in Florida drive up to New Hampshire and they see a nice little cute summer cottage and they have been living in Florida all their lives. Their work, their profession, their business is there and they decide well I am going to start taking the summers off and I am going to change my voting residence from Florida to New Hampshire. Now those people might very well come under the last sentence. But not the reverse.

Sen. BRADLEY: That then is going to prevent someone from Florida or from wherever he is from establishing New Hampshire as a domicile, it seems to me, unless that person is willing to be physically present here more than six months of the year and that is certainly a very substantial change in existing law and custom as far as I know.

Sen. JACOBSON: No, I don't believe that it is, I think the custom and the law is the intention to live in New Hampshire and be a New Hampshire person.

Sen. ROCK: Senator Jacobson, in your work on this were there any efforts in researching court cases, was there any wording in court cases that led you to come to a decision such as we have in the bill to your knowledge?

Sen. JACOBSON: No. The only guiding case on signing up for vote is of course the Baker case, which says that they only have to live there for 30 days in order to come up to vote. But what this bill does, it says in fact, that if that is your intention fine but if your intention is to live in Florida, coming from Florida, coming in to register for the first time and only being here for a short period of time and spending your major effort, your work effort, your bank effort, the general sociology of your life in Florida then you shouldn't be on the checklist of New Hampshire.

Sen. ROCK: I guess senator that I was led to believe, it could have been the house committee that worked on it, but they did a great deal of court research and they found that this wording was the one that most frequently surfaced in the court and was acceptable and that is how the wording got in there, as a result, I thought perhaps you had been on the committee. But would you agree with me that there was a great deal of investigation in the court decisions before arriving at the wording that we have now.

Sen. JACOBSON: My advisor says yes.

Sen. KEENEY: Senator would residency for this purpose be in conflict with residency for other purposes such as the many exemption laws. I am thinking of a particular case where a resident still had a home in town but remarried and was living probably more of the year at the husband's home but kept a voting residency where her first home was?

Sen. JACOBSON: Let me say that this definition relates only to voting rights. Now other examples of the exemptions have to do with where and who owned the property on April 1 for example. The bill that followed that has to do with es-



tablishing the rights of persons in military service and overseas and their rights which conform to the federal law.

Sen. HEALY: That it does agree with federal law, I will agree on that because I was involved with a similar plan but doesn't that bill itself, pretty similar to that military bill.

Sen. JACOBSON: It sets up a permanent domicile, right.

Sen. SAGGIOTES: Senator Jacobson how would this affect a New Hampshire resident student who goes out of state and attends college and is on his own, has his own residence or domicile and yet would like to keep his voting residence in the town in New Hampshire where he comes from yet he lives for at least 9 months of the year, out-of-state?

Sen. JACOBSON: That is taken care of in HB 1184.

Sen. Hancock moved an amendment to HB 1186.

Sen. HANCOCK: All the amendment does Mr. President is leave off the last sentence of HB 1186. I think that answers the question of the residency relative to portions of the year. Now this has been alluded to as a cause for concern of those people who might spend seven months out of the state and I think Senator Bradley has brought the questions that are of concern to those people so I think that this does not weaken the proposal but it does clarify and I think it would make it easier in the minds of those people who have that condition obtained to them.

Sen. BRADLEY: Senator Hancock in my researching on HB 1184 it is my understanding that this bill takes care of the problem that you have brought forward wherein there will be an allowable decision made by the selectmen or whoever to determine this case. Supposing HB 1184 does what it says it does and it passes would you then be satisfied to let HB 1186 go as it is without your amendment since it is already taken care of in another bill?

Sen. HANCOCK: In answer to your question Senator I thought that was the case too but upon reading 1184 and upon discussing it with the persons who are objecting to the last sentence of 1186 they don't feel that it really covers the situation.

Sen. BRADLEY: Would you name the person whom you discussed it with?

Sen. HANCOCK: Yes. I have discussed it at quite some length with Representative Esther Nighswander.

Sen. BRADLEY: Is there anyone else that you have discussed it with?

Sen. HANCOCK: Well I have discussed it with the committee and Representative Conley.

Sen. BRADLEY: Did Representative Conley assure you that 1186 takes care of this?

Sen. HANCOCK: He did.

Sen. BRADLEY: Do you believe Representative Conley?

Sen. HANCOCK: It is not a question of believing him and not believing Mrs. Nighswander one way or the other. I don't think this, if it would clarify it from this piece of legislation's point of view but not weaken it then I think it would satisfy the need which we have.

Sen. BRADLEY: Are you ready to support HB 1184?

Sen. HANCOCK: Yes I am.

Sen. BRADLEY: Would you have any objection to laying this on the table and we'll pass 1184, reassure you that it is taken care of and take this off the table, would that satisfy you?

Sen. HANCOCK: Yes I think it would.

Sen. LAMONTAGNE: Senator I think a good suggestion was made by Senator Rock if a motion was made to table this matter because I personally would like to look into my bill that has already passed the Senate and about the legal voters and the wording sounds almost the same as my bill that has already passed the Senate.

Sen. HANCOCK: I might add further that Representative Nighswander talked to the governor's council this morning and it was my understanding that he was going to prepare an amendment to this 1186 so I can't give you the particulars on it but evidently he had some problems with it too. So if it goes on the table perhaps we can resolve it.

Sen. LAMONTAGNE: Has he got a problem with my bill that is in the House now?

Sen. HANCOCK: No, no problems with yours sir, with this one here.

Sen. ROCK: Senator Lamontagne, let me just hypothesize with you for a moment. Suppose that I had reason to believe that your bill was coming out inexpedient because of what is contained in this bill which takes care of the problem, would you then be willing to move ahead with one of these if your

bill wasn't going to pass in the House?

Sen. LAMONTAGNE: I'll be frank with you Senator, it doesn't make any difference to me as long as this matter becomes law. There is a problem and it needs to be straightened out.

Sen. FENNELLY: Senator Jacobson, in layman's terms how would HB 1186 affect say the town of Durham where in the last election 300 students or approximately 300 students, undergraduates and so forth, went down and they wanted to register to vote, quite a few of them did that is the figure that I got, and they did vote in the last election. What, 1186, without this amendment, how would it affect these people?

Sen. JACOBSON: There could be the possibility and that is not only true for Durham it is also true for Henniker, I think some 300 students from there went into vote. It could affect them if for example there was no evidence to show that they have the intention of making New Hampshire their permanent home.

Sen. FENNELLY: Approximately four years ago, I think it was the supreme court, of the state of New Hampshire, came down with a decision in this area where there was some opposition of allowing some of the students over at the university to register and then vote on the supreme court made a decision in that case, how would this affect their decision?

Sen. JACOBSON: I don't recall the decision. If you will tell me the decision then I can respond to it.

Sen. FENNELLY: There was opposition and it was brought into the supreme court and if my memory holds true that unless you were a permanent resident of the city of Durham or surrounding areas of Lee, or Madbury or even Dover where some of the young students lived, that you couldn't vote and the decision came down, this goes back about four or five years now, that they could vote. I'll try to get the finding on the supreme court.

Sen. JACOBSON: The Baker decision of the United States Supreme Court struck the residency requirements from six months or a year, ours was six months, to 30 days. Now ours is only 10 days at the present time so that if they had declared their intentions to become residents of New Hampshire in the permanent sense of the word then they were entitled to vote.

Sen. FENNELLY: In that decision, basically, could you

tell me what was the decision of the supreme court, are students going to be resident at Colby College or Durham or Keene or Plymouth, and he is going to be there for four years and he wants to vote, what determines his qualifications as a registered voter if he is intending to becoming a permanent resident, isn't this a gray area?

Sen. JACOBSON: In the case of the Colby-Sawyer college student it is a less complex case for one thing where the whole question of residency for persons coming from out of state has to do with the tuition basis there at UNH, it is a more complex question. At Colby-Sawyer, those who have declared their intention, are enrolled.

Sen. ROCK: Mr. President, if I wished to reassure some of the Senators who may have a doubt in their mind about the clarification that is contained in 1184, would it be in order if I moved at this time to lay HB 1186 and its amendment proposed by Senator Hancock on the table?

The CHAIR: It would certainly be in order if you moved that motion.

Sen. Rock moved to lay HB 1186 and its proposed amendment be laid on the table.

Adopted.

HB 1184, relative to a temporary absence from residence and its effect on voting rights. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: HB 1184 clears up many of the questions and the key to this are the four sentences which follow after the first sentence beginning with the words inhabitancy. "Inhabitancy for the purpose of voting as defined in RSA 54:1 once existing, continues to exist until another legal voting residence is gained. Temporary personal residence and permanent legal residence for purposes of voting are questions of fact and intention. A voter can have only one legal residence for these purposes. That residence must be the principal residence." This would take care of the concern of Representative Nighswander with people on Governor's Island and other places that apparently spend considerable time in Florida. The rest of the bill is as it was, for example, if you are in hospital, I think that question was raised by Senator Bossie earlier, you don't lose your rights if you are



in a nursing home, a convalescent home or an old-age home—you do not lose your voting rights in your principal place of residence where you originally have been. So that is what this bill does.

Sen. HANCOCK: Senator Jacobson because it is not listed, it does not necessarily mean then that people who do spend their time away seven months of the year are precluded from a principal residence?

Sen. JACOBSON: Once having established that residence, for example, I went off to England for 13 months as visiting lecturer but I maintained my home in New London and I actually voted in the biannual election cause I considered that to be temporarily away.

Sen. HANCOCK: However that was a one-time temporary absence.

Sen. JACOBSON: I would like to do it again.

Sen. HANCOCK: It was not however a thing that you would be doing continuously as these people who go to Florida or wherever they go for a period of seven months on an annual basis, correct?

Sen. JACOBSON: Well first of all Senator if I could go to Cambridge for half of the academic year and Colby-Sawyer for the other half of the academic year, I would like to do that too. So that would be the same kind of situation I think.

Sen. HANCOCK: You realize that this bill cites specific instances as temporary absences. However you are assuring me that that does not preclude other instances which are also justified?

Sen. JACOBSON: The rest of the bill is in the statute at the present time except for the part that I read.

Sen. HANCOCK: Thank you very much.

Sen. BRADLEY: I appreciate the intent of these two bills which is to try to flush out this somewhat elusive principle of legal residence or legal domicile is all about but in all candor I don't think the draftsman has done it. I think he has raised more problems than he solved. For example, some of this is accurate statement of what the existing law is but the basic problem that I have with both these bills, 1186 and 1184 is that it seems to be trying to have residence termed on what is principle. The principal residence, what is the greater portion of each year. You cannot do it that way I assure you, you cannot get into a matter of counting days at one place or another and get anywhere. You shouldn't try so I think

Senator Hancock's amendment is a good one on the previous bill because it strikes out this business of the greater portion of the year. Now the problem with 1184 is in here, that the residence must be the principal residence. Now if that means anything to me that means where you live 51% or more of the time of the year. I don't know when you are going to measure that and I don't know how you measure that. I guess you put, I would worry, If Senator Jacobson wants to teach 6½ months in Cambridge and 5½ months in New London I think he is entitled to do it without losing New London as his legal residence, whether or not it is his principal residence, I just think we ought to try to amend these things or send them off to study. I don't know how severe the problem is to people who are administering these laws but I think these two bills are going to increase the problem not solve them.

Sen. SANBORN: Senator I was very interested in the first part of your speech relative to the ability of the person that drafted this. Could you run that by me again, so I can get it?

Sen. BRADLEY: I said something to the effect that I don't think the draftsman has flushed this out and solved the problems. I think he has raised more problems than he has solved in trying to determine what a person's legal residence is.

Sen. SANBORN: Senator would you consider that attorney Snow might have a certain amount of expertise in this area having been on the ballot law commission etcetera etcetera?

Sen. BRADLEY: I consider attorney Snow to have a great deal of expertise. I don't care who drafted it, I think they created some unwarranted questions and problems.

Sen. SANBORN: In other words and I understand that attorney Snow was the principle drafter of this, he didn't show too much common sense, is that correct?

Sen. BRADLEY: No I am not saying that at all. The most skillful draftsman can make errors, can create problems and I have done some drafting myself and thought I did a great job, I thought I knew what I was doing but when someone else comes along and looks at it in a different light you see problems with it and I think that is exactly the position that we find ourselves in, I think it is a good attempt—I think these two bills would be fine if we strike one sentence from each one of them.

Sen. SANBORN: Well that brings up next, what sentence do you want to take out of 1184?

Sen. BRADLEY: The sentence that ought to come out of 1184 is the one that says "that residence must be the principal residence". I think the rest of that previously to that is a good statement of existing law. The last sentence which is already in the statute books which I have some problems with but I am not going to raise that to the other legislators who are responsible for that one. The problem that I have with that last sentence is that it seems to say that you can't gain a residence here because you come to live in an old-age home and I don't think that is clear and I am sure it wouldn't be construed that way.

Sen. SANBORN: Senator I believe that you have stated to me before that you spent some time with the military.

Sen. BRADLEY: Yes indeed.

Sen. SANBORN: And Senator while you were in the military, you still had a place that you considered your principal residence not the wardroom?

Sen. BRADLEY: That's true.

Sen. SANBORN: Then wouldn't you consider that everybody has a permanent residence somewhere?

Sen. BRADLEY: That's right. I think that that is one of the fundamental principals, everybody has got a legal residence which is not necessarily his principal residence. Principal residence is not a well-defined term. It is neither well understood nor is there any law in this area I don't think which clearly says what principal residence is. That is the thing that is throwing something new in here. It gets to the business of adding up days and I don't think that is the inquiry that you should make.

Sen. SANBORN: It isn't so much the sentence it is the word principal that you are against?

Sen. BRADLEY: Pal, that is right.

Sen. SMITH: Senator I would just like to ask some questions in relationship to both bills kind of at once. As I understand under the present situation, we have some real difficulties in this state, supervisors and so forth, determining who a resident is. Under these bills it is determined that however, once a person is registered, and is voting, then the only way he or she should be taken off the checklist is by re-registration in another location, is that correct?

Sen. JACOBSON: That is correct. That is what HB 1184

says. That that person who is registered remains on until such time as they register to vote in another place or die.

Sen. SMITH: The question that has come up that Senator Bradley seems to be concerned about is the vagueness of the word principal. Now is it really after a person has been registered to vote, does that question principal really come into play.

Sen. JACOBSON: I think Senator Bradley has created a confusion of his own. The first bill relates to the ability to establish one's legal voting right and that a person who in the normal processes does not live here a major portion of the time, should not be entitled to register. Now the word principal as far as I know has no chronology attached to it. There is no necessary time factor. I may be a wealthy person like you Senator Smith, and have 8 or 9 residences, and consider one my principal residence and I may only be there 30 days of the year and down in the Bahamas four months or Monaco three or four months.

Sen. SMITH: For instance, I had a home in New Hampshire, to take it away from time element, if I had a home in New Hampshire that had a value say \$15,000, and another big spread in Florida that was \$100,000 home, I could still consider from that point of view New Hampshire's \$15,000 home as my principal residence, could I not?

Sen. JACOBSON: You certainly could because principal except in terms of interest payment than what is in the bank, principal has no monetary connections either.

Sen. SMITH: So what you are saying basically is the determination of whether a person is eligible to vote is in the first instance to become registered, he must show that he lives here more than six months.

Sen. JACOBSON: He must show that he intends to live here and make this his home.

Sen. SMITH: Once that has been determined then the question is dead, and he cannot lose his vote until such time as he takes a positive action to register somewhere else.

Sen. JACOBSON: He can lose his vote as far as I know on only three circumstances. One is that he takes a positive action and votes someplace else. If he votes in New Hampshire there is an exchange of cards between the supervisors of the checklist. If he goes off to Arizona, he registers there. Ancil-



lary to that is that when the residence tax is asked for and he refuses to pay the residence tax because he is a resident of Sunapee or Arizona, it becomes a sort of declaration of his, that he no longer intends to be a resident and then the other reason is that he dies.

Sen. SMITH: In conclusion would you not say that the problem has been very extreme in the past, and although this bill may not be perfect and it may create some problems in the legal minds it probably is a step forward.

Sen. JACOBSON: I think it is a step forward in terms of defining the intention of being a resident in New Hampshire.

Sen. BRADLEY: Senator Jacobson, I'll give you a case. A man who lives entirely in the state of Illinois and that is his legal voting residence decides that he is going to sell his house and move away from Illinois. He buys a house in New Hampshire, a house in Florida and a house in Texas. He is going to spend four months in each of those, that is his intent in his retirement years but he wants to make New Hampshire his legal domicile. Under existing law as I understand it there is no question but that that person can come here and say the officials of New Hampshire, I am declaring New Hampshire as my legal domicile for all purposes and my address is on Elm Street. What worries me about these two bills is that man is not going to be able to get on the roles in the first place because if he is honest and they ask him, he is going to say no, I am not going to be here the majority of the time. Don't you think that it is unworkable to have to establish when you go into register to vote to establish that you will be here a majority of the time in the future?

Sen. JACOBSON: 1184 would not be applicable in your illustration. 1186 does not speak of majority incidentally, it speaks of greater portions of time and I think that is merely a way of saying that what we want to not have is a person whose real residence is in Connecticut where he works for a factory and he has only a summer home in New Hampshire. But the person of your illustration I see no reason at all why that person couldn't register to vote in New Hampshire. When he comes in and declares this is the place I want to live, I do not want to have my legal residence in Illinois anymore.

Sen. BRADLEY: I guess we are actually on 1184 but to me they are tied together. The man is only going to stay here for three months and be in the other one five months and the other one 4 months so it is going to be the least portion of time in New Hampshire. Will he qualify?

Sen. JACOBSON: I would have to say that one of the dictum of law is that we have to be reasonable and use common sense. If that is his clear intent no matter whether he is traveling around the world, if that is the place that he wants to vote, if that is the place that he wants to I hope he will move to New London if he has interest in dividends tax to pay, if he wants to assume all of the responsibility of being a New Hampshire resident then that is the place he is. The fact that he travels is not the pertinent issue.

Sen. BRADLEY: What would be the harm then in striking from 1184 the sentence that says "that residence must be the principal residence" and striking from 1186 the last sentence which says that "the residence must be the place in which he dwells the greater portion of each year than in any other place". Wouldn't that be common sense?

Sen. JACOBSON: In the instance of 1186 that would in fact nullify the bill in terms—the rest of it we have at the present time. The whole intention of this is to bring residency so that we do not have abuse and I think what you are arguing Senator is that you are fearful of some minor failures with respect to specialized cases which may not be able to register but I assure you for example that anyone who comes to Hanover and says I intend to reside in Hanover you have to take him at his word.

Sen. TROWBRIDGE: Senator Bradley asked you a question about the person who was here three months and five months somewhere else and so forth. My question to you Senator Jacobson is it your intention that a person who is out five months should not be registered even if he says I want to be registered. There is another issue as to whether he can but whether he should be registered in New Hampshire.

Sen. JACOBSON: Senator the intention of this legislation as I understand it, is to prevent abuse of the kind of person who lives in Connecticut and lives there obviously it is his residence and he wants to for some purpose, utilize his

summer place even a place that he may rent for the summer, and establish his residency for some purpose. That is my understanding of the bill. If a person in the illustration in the choice of going to three different places and never going back to Illinois I think that is a wholly different question than Mr. Smith who comes up here for 8 weeks out of the year and spends the major portion of his time in his own private business or working for someone else.

someone else.

Sen. TROWBRIDGE: I have a couple of constituents that I am thinking of. One who lives in Peterboro and all his kids live in Texas so he goes down to Texas during the winter and he'll leave in November and he'll be there until June when he'll come back so he will be in both states probably 6 months. What is the situation with that voter?

Sen. JACOBSON: If that person is on the checklist no problem whatsoever. He he wants to go on the checklist and choose between Texas and New Hampshire under those circumstances, I see no problem with that.

Sen. TROWBRIDGE: If you are a supervisor of the checklist and not privy to the discussions here and the guy came in there and described that he has a condominium in both places and it is absolutely equal and there is no question that he has ties there, how would you know what his principal place of residence was?

Sen. JACOBSON: The bill proposes the question of intention. I would presume that the question of subterfuge when the person does not really intend but that is going to be very difficult for the supervisor of the checklist to establish. Now if they think it is a subterfuge they can disqualify and he can appeal immediately.

Sen. TROWBRIDGE: And the appeal procedure would be?

Sen. JACOBSON: To the superior court.

Sen. FOLEY: If I was in Washington and worked there for many years as a federal employee and wished to keep New Hampshire as my home even though I really didn't live here and I only came here on holidays to be with my family, my intention is that I will some day come back here would I according to these bills be able to vote?

Sen. BRADLEY: I believe you would, certainly under existing law. The problem in your case as I understand it you were originally on the checklist and then went away to Washington for many years and came back for brief periods of time, then I think that you are primarily governed by this 1184 and the problem that I have with the bill in applying that situation is that you have got to call New Hampshire your principal residence, it seems to me that it is inherently contradictory for you to say that New Hampshire is your principal residence, it is your legal residence but it may not be your principal residence.

Sen. ROCK: Senator Jacobson following up on the line of questioning of Senator Trowbridge and thinking of his good friend that visits Texas and who comes into the selectmen to prove his intention of being a New Hampshire resident for the purpose of voting. I believe the question that Senator Trowbridge asked was how would he convince them. Would it not be appropriate if he convinced them by marching into the New Hampshire march that we passed earlier this year and carrying a little New Hampshire flag and saying the words to the song, wouldn't that be convincing?

Sen. JACOBSON: That might not be because some of our subversive people in this country are also pseudo-patriotic so one would have to be careful.

Sen. Bradley moved that HB 1184 be laid on the table.

Division vote: 11 Senators voted yea. 8 Senators voted nay.

Adopted.

HB 1091, relative to overseas citizen voting rights. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This bill has to do with the rights of citizens who live overseas, their voting rights. What this bill does is simply provide a mechanism which is in conformity with federal statutes so that no citizen of the United States who is presently living, working overseas will be denied the right to vote. It provides an affidavit saying that that person is a resident of the particular state in this instance, it is the state of New Hampshire, and that they are a citizen and that



they hold a valid passport and that they are residing outside the United States. It is a bill drawn in conformity with the federal voting rights act.

Adopted. Ordered to third reading.

HB 139, providing for the filing and public availability of checklists after every biennial election. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: Mr. President, I believe that this is an easy bill and it will not engender debate. At the present time copies of the checklist are available after each presidential election and the filing of these checklists with the state library. What this bill does is add biannual elections, so that every two years these checklists will be filed rather than every four years.

Sen. BOSSIE: Not to disappoint you, but I think you should analyze this again. The question is this, isn't it true about three or four years ago when we had a similar sort of bill before the Senate Judiciary Committee that the state librarian came over and said, please, won't you please change the laws so these towns do not have to file their checklists showing just who voted because we don't have any room for it, we don't want them, nobody ever looks at them, also a number of towns don't have formal checklists anymore, they have data computations from a computer so rather than having big rolls of lists of voters and now they have sheets, that high for the city of Manchester, don't you think that we should analyze that again?

Sen. JACOBSON: I think that lies within the prospect of analyzation but this is not the time.

Adopted. Ordered to third reading.

HB 1189, concerning the reporting of political expenditures, advertising and contributions by certain committees and certain candidates. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This bill relates to the reporting of political expenditures. In the last section, section 4, it repeals the present statutes which have something about 15c per vote which the courts have held are unconstitutional and therefore cannot be enforced and they were not enforced in the last primary and last biannual election. The other portion of this has to do with the filing of statements. What it does in essence is require major candidates, that is Governor, Presidential elector, United States senator, representative in congress or delegate at large or district delegate from national political convention must file true expenditure forms prior to the primary or biannual election whereas now he only needs to file one prior to election. This new additional one will come three weeks before the primary or biannual so that the opponents of the candidate can have an opportunity to check the contributors particularly for those powerful organizations located in various places in Washington.

Sen. ROCK: Senator Jacobson in the echoes of my mind I am listening and hearing the former words of the Senator from the sixteenth district who always had some concern with this measure when it was attempted to be passed. You are saying that if someone now wanted to come in and spend ten or 12 thousand dollars to be elected as State Senator he would not be restricted anymore by the 15c limitation that we formerly had?

Sen. JACOBSON: Senator if you want to spend a million dollars on your election to State Senate, re-election, you may do so.

Sen. ROCK: Could you clarify for me, the basis for your answer.

Sen. JACOBSON: The federal district court, Representative Hildreth took the case to the federal courts and the federal court said that he could not be bound by the 15c requirement and our present attorney general said that that law is invalid and therefore need not be followed. For example in the last primary and general election both gubernatorial candidates spent I think at least twice what they were legally entitled to, but it was perfectly legal.

Sen. BOSSIE: Senator notwithstanding the fact that I am your lawyer, I got a question for you. What is there to pre-

clude a candidate for office rather than including his contributions in a three week filing to just hold off and file one week before or one week after?

Sen. JACOBSON: It would be established that he has spent the money prior to that time and he would then be in violation of the law.

Sen. BOSSIE: Senator it seems that a number of candidates and it is interesting when one looks through the forms filed with the secretary of state that there aren't many contributors to a substantial number of candidates but everybody in that individual's family seemed to contribute significant amounts to their campaign. Now is it something peculiar to New Hampshire that only one's relatives support their candidacy and how does this reflect on that three week thing.

Sen. JACOBSON: The individual himself can contribute the money and all he would have to show is where he got the money and how he expended it.

Adopted. Ordered to third reading.

HB 723, eliminating the requirement for the residence of a candidate on the ballot. Inexpedient to legislate. Sen. Jacobson for the committee.

Sen. JACOBSON: What this bill purports to do is remove the place of residence of a candidate from the ballot. Now there really are several reasons for this, one is if one has a very nice political name such as John F. Kennedy, if you don't put the town down you are going to get a lot of votes. That is one reason. The other reason is that in a multi-representative district there may be a candidate from a small town and a candidate from a large town and it was felt that there was an advantage to the person who came from the large town. It was the committee's opinion that the voter is entitled to know from which town the candidate comes from and therefore recommends that it be inexpedient to legislate.

Division vote: 13 Senators voted yea; 6 Senators voted nay.  
Adopted.

HB 1090, relative to filing for an office when at the time of such filing a person is not of the age to qualify for that office. Split report; Majority—Inexpedient to legislate. Sen. Jacobson. Minority—Ought to pass. Sen. Hancock.

Sen. JACOBSON: This is an interesting bill. What it in effect allows is 17 year olds to file for office so long as they are 18 on the day of the primary. This is the intention of this bill to allow these 17 year olds to file. I find it a very curious dilemma that the house would pass this piece of legislation and then say to 18 year olds that you cannot go and buy a bottle of beer. There is something incongruous in that—to allow 17 year olds to file for responsible office in the House of Representatives and then say to them when they become 18 year olds they can't go and buy a bottle of beer.

Sen. BRADLEY: Senator do you think that might be because the House feels that those 18 year olds make better legislators than they do drinkers?

Sen. JACOBSON: Well I think that is an interesting philosophy though we haven't established the documentary evidence.

Sen. SANBORN: I can see where it says that a 17 year old as you have just indicated, may file for only representative, now how does that affect well we'll say selectmen, county commissioner and anything like that, that 18 year olds qualify for now?

Sen. JACOBSON: Apparently not.

Sen. SANBORN: Isn't it queer that in some ways we allow them to be a state officer but can't let them be a county or town officer?

Sen. JACOBSON: The bill did not go to that question although once 18 years old a person may run for selectmen or county commissioner.

Sen. HANCOCK: It is my understanding that the statute now says that a person of 18 may serve in the house of representatives and a person of 30 may serve in the state senate. What this proposal does is say that if a person is going to be 18 or be 30 at the time of the general election then he or she may file for those offices and it seems to me that this is only



fair to give an opportunity to serve in our legislative body and I move the adoption of the recommendation.

Sen. SANBORN: Senator, the same question to you as to Senator Jacobson. If we can allow upon passage of this bill an 18 year to be in the house of representatives, why can't we let them be selectman, moderator, county commissioner, county treasurer, town treasurer, school board member et-cetera and so forth? Haven't they got the same intelligence to take those offices as they have this one?

Sen. HANCOCK: I wasn't aware that they couldn't be. It is my understanding that a person of 18 can serve as selectmen.

Sen. SANBORN: Absolutely right. But next spring we are going to have town meeting, we have got somebody who is going to be 18 the 4th day of March we'll say, right now he can't file for it. He is only 17 when the filing takes place.

Sen. HANCOCK: That is true. This speaks only to the legislative body of the general court.

Sen. SANBORN: So this means that the same people that can file for representative cannot file for town clerk, selectman and so forth?

Sen. HANCOCK: It may be sir that you would like to introduce legislation to allow them to do that.

Sen. SAGGIOTES: I think that what this does is clarify a point. Our constitution says that you may serve at the age of 18, you may turn 18 between the primary and the general election therefore you could run and file in the general election but could not file in a primary. This allows and mandates really that if you are going to be a candidate at the age of 18 on election day that you should run through the whole electoral process by filing for a primary, running in a primary, getting elected in a primary and then getting elected in the general election rather than for instance waiting for a house seat and if there is a hard-fought contest in one party and somebody who is just turning 18 after the primary in another party that does not need to go through the primary battle and can come clean in for the general election. It seems to me that this is a logical, and gives logical continuity to the electoral process.

Sen. HANCOCK: Senator Smith are you aware that the

republican member of the congressional delegation Mr. Cleveland when he was first elected to the Senate, the general election in November became 30 in October, so we have precedence for this by practice anyway?

Sen. SMITH: I wasn't aware of that.

Question of majority report.

Sen. Hancock moved to substitute the words "ought to pass" for the words "inexpedient to legislate." Sen. Hancock requested a roll call. Seconded by Sen. Fennelly.

The following senators voted yea: Smith, Bradley, Saggiotes, Blaisdell, Keeney, Hancock, Healy, Bossie, Fennelly, Downing, Preston, Foley.

The following senators voted nay: Lamontagne, Poulsen, Gardner, Bergeron, Jacobson, Monier, Trowbridge, Rock, McLaughlin, Sanborn, Provost, Brown.

12 yeas      12 nays

Motion failed.

Sen. Downing moved that HB 1090 be laid on the table.

Division vote: 15 Senators voted yea; 5 Senators voted nay.

Adopted. (Sen. Monier recorded in opposition.)

Sen. Jacobson in the chair.

### **Special Order 3:10 p.m.**

HB 679, relative to the fees for licensing dogs and dog keepers or breeders and requiring a health certificate on dogs sold by breeders and providing a late fee for failure to procure a license prior to June 1.

Question of the committee amendment.

### **Amendment to HB 679**

Amend RSA 466:4 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

466:4 Fees. The fee for every license for a year shall be

\$3.50 for a neutered male or spayed female dog, \$6 for an unneutered male and \$6.50 for an unspayed female dog, and such proportionate sum for licenses for dogs becoming 3 months of age after May 1, or which may be brought from out the state after May 1, as the remaining portion of the year bears to the sum required for a license for a whole year; provided, that the owner or keeper or such spayed female dog or neutered male dog shall furnish a certificate from the person performing the operation, to the satisfaction of the clerk of the town or city wherein such dog is owned or kept.

Amend RSA 466:6-a, I as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

I. No dog shall be offered for sale or sold in the state or out of the state by a breeder, without first being innoculated against distemper, hepatitis and heptospirosis and unless accompanied by an official health certificate issued by a licensed veterinarian within 14 days. Said certificate shall be in triplicate, one copy of which shall be sent to the state veterinarian, own copy of which shall be kept by the breeder of said dog for a period of at least 3 years and one copy of which shall be given to the purchaser.

Amend RSA 466:6-a as inserted by section 3 of the bill by inserting after paragraph V the following new paragraph:

VI. Any person who violates the provisions of this section shall be guilty of a violation.

Sen. PRESTON: Mr. President HB 679 is one of several bills having to do with license fees, controls and so forth for the dogs within the state. There is no question that in every community one of the most popular or unpopular bills of any town meeting is the control of stray dogs etcetera and you will hear 3 and perhaps 4 bills today as we have another bill having to do with license fees and the amount that would go to the town clerk or the diagnostic lab. But principally HB 679 calls for an increase in fees from \$2.00 for a male or spayed female to \$3.50 and for the unneutered male \$6.00

and for the unspayed female to \$6.50. Now essentially these fees have been the same since 1891. \$5.00 for unspayed females was added in 1903 which represented two days pay at the time but it does not begin to pay for the cost today for the animal control officers that we have within the towns. These increased fees would help to provide some of the services that the tax payers at large whether they own dogs or not are being required to pay for the construction of facilities for the feeding of the dogs and for the euthanasia of the animals which in itself costs estimates \$8.00 to \$15.00 each. Testimony was provided by many people indicating costs and Laconia was cited as an example where they take in \$5,000 and spend \$14,000. Merrimack spent \$14,000 in a new dog pound facility last year and in 1976 over 25,000 dogs were disposed of in the various cities. In the amendment to 679 include the license fees and indicate that no dog shall be offered for sale or sold in the state or out of the state without first being inoculated for the various diseases. It also indicates that a breeder or one who sells the dogs will not sell it prior to 8 weeks of age. I urge the passage of this bill, I know that there has been a lot of controversy on it but I think it is essential that we help to control some of the problems and this has not been intended to hurt the dog lovers, we cut the fees back \$4.00 in one case on house recommendation and \$3.50 in another.

Sen. BOSSIE: Mr. President if I wanted to propose an amendment that a license for a dog would be effective when they are six months old and the sale of a dog when they are six weeks of age would I up the amendment to Senator Preston's amendment or wait till his amendment is done?

The CHAIR: The parliamentary procedure is that his amendment, a committee amendment, you can either adopt or reject it and then any other amendment that is proposed will be in order.

Sen. KEENEY: Senator Preston, in your amendment you have the same term as I find in two other places of the bill and that is that a breeder, no dog shall be offered for sale by a breeder and there are occasions when you want to advertise before the dog is actually available for sale, would that be considered an offering for sale and therefore be illegal?



Sen. PRESTON: No it would be the time that the ownership of the animal changes hands. Is it the 8 week period that you are asking about?

Sen. KEENEY: I am speaking of offering for sale and when I am advertising I have puppies available, am I not offering them for sale?

Sen. PRESTON: Well the actual transfer and so forth could not take place prior to the 8 weeks, as far as the offering that was not the intent to preclude that in advance, it would be the actual transfer of the animal to make sure that they were inoculated and that they were healthy animals and they thought that was a sufficient amount of time. As to your question I do not believe that would be affected.

Amendment adopted.

Sen. Bossie moved a further amendment to HB 679.

Sen. BOSSIE: Thank you Mr. President. I realize that these special orders were made at my request but I just discovered one of these errors today. Basically under the first part of the bill in the amendment as proposed by the committee, any dog that is three months of age must be registered which is fine but here is the problem to it and you who have dogs should know it. If you get a brand new dog, a puppy, you have to have a license at three months of age but you can't get a license until you have the dog inoculated. Well the veterinarians won't inoculate the dog until six months of age so you're three month period you have the dog, you're in violation of the law, the veterinarian will not inoculate it until it is six months old, the city hall or town hall will not give you a license for the dog because you don't have the certificate of inoculation. So this is a gray area of three months in which you are in violation of the law but you can't help it because the veterinarian won't take care of the problem and so this is a very simple amendment. My other amendment is that apparently in the breeders or whoever thought up this bill wanted to make sure that dogs weren't sold till 8 weeks of age. Well as we know, one generally acquires a dog or puppy at six weeks of age and I can't imagine why one would try to change it to 8 weeks. I am used to

having a Saint Bernard or a Sheepdog and an 8 week old Saint Bernard will not fit into any cage, I just can't understand why you would to have 8 weeks of age. My amendments are fair and I have given great thought to these people, supposedly the dog lovers, who have been hounding me, excuse the expression, since last Thursday and I have gotten a call from every veterinarian in Manchester, I've won the calls from all these dog people who I just love but I think that we disagree as to this part and I hope you will agree with me that the amendment will be fair.

Sen. HANCOCK: I wasn't aware that dogs could not be inoculated until they are six months old. Did you check that with all those veterinarians that called you?

Sen. BOSSIE: Oh, and I have talked to them and I have had this experience twice so far in which I have tried to get my dog inoculated and the veterinarian says no come back at six months, and I say well gee I have to have my dog registered because as you know they keep close tabs on the politicians in Manchester and make sure that they do things correctly.

Sen. HANCOCK: Those distemper shots or any kind of shots before six months?

Sen. BOSSIE: Well the shots that are required to get a license are not given until six months.

Sen. HANCOCK: Are you aware that the humane shelter people are very concerned that a puppy not leave its mother and its siblings until it is at least 8 weeks old and the reason for this is that the humane shelter people testified to me at some length that the dogs that have problems, the dogs that bite that are nervous that are irascible are the ones that have not have the opportunity to stay with their mother until 8 weeks old, are you aware of that?

Sen. BOSSIE: No, see my dog does not have a psychologist or psychiatrist but let me say this, I find it hard to believe that we would apply this, obviously to purebreds, the only type of dogs that you sell are purebreds, but you can give all these mutts all around, that you people are trying to control and give them away at 2 weeks old. This isn't fair, either you do the same for everyone, or nothing for everyone.

Sen. HANCOCK: That would be perfectly all right with me. You are aware that there is a problem on many occasions when dogs leave their mother before they are 8 weeks old?

Sen. BOSSIE: I am not aware of the problem, I have always bought my dogs when they are six weeks of age. I had a dog that had a litter of 10 puppies and I gave them away at six weeks and I apologize if they are ill-mannered as a result of it, I did not know. But I have never heard that other than in the Senate today that it causes them to act in any other manner but good.

Sen. KEENEY: Senator Bossie, I am still concerned about the term offering for sale and as a lawyer would you interpret that, if I advertise that I have puppies under this age, am I therefore against this bill, am I offering them for sale?

Sen. BOSSIE: It would appear that you would be but the house has amended this bill so it is very difficult to find out the answers because the people who have been so insistent upon it just want this so bad they aren't concerned about the issues or the numbers or anything else. It is okay to apply it to purebreds, but why just them. Apparently the problem is with the hound dogs, the mutts, not the purebreds. Anyone who spends \$100 or \$200 on a dog is going to take care of it. It is the ones that give the Heinz 57 that you are going to have a problem and I don't know and probably Senator Preston would answer if I defer.

Sen. KEENEY: Are you aware that term is in the house version, "no breeder shall offer for sale any dog less than 8 weeks of age and that you are proposing to lower that to 6. Would you be agreeable to change that term in your amendment since it isn't already drawn up?

Sen. BOSSIE: I think we would be indulging upon the President; I think the only reason he permitted my oral motion is because it only involves numbers. I might add, I checked with my United States Senator Durkin last week, gee, how do you people do amendments down in the United States Senate and he said oh, down there unlike the state Senate, if you have a motion, you just write it out give it to one of the clerks that are hanging around and that's fine you

just start arguing on it. So anything is possible down there and even though there is 100 of them and here there is only 24 and we are hard pressed, especially at this time of the year. So maybe what we could do is pass my amendment, if you want to put it on the table after that to work out your problem that would be fine.

Sen. HANCOCK: Mr. President, members of the Senate, I would again remind the Senate that this is a serious matter that has been studied over a period of time by some responsible people and there are three bills, and they are all set to protect the consumer and they are set to protect the animals and this I think is extremely important. There is the bill which licenses the dogs but requires a certificate of inspection and health guarantees be provided by breeders that inspections be made of pet shops and that inspections be made of humane shelters. Now with the best of intentions all of these people perhaps have not been as attentive to cleanliness and to inoculation as they should in the past so that this trio of bills, this three-legged stool is going to provide to the pets and to the public a degree of certification that I think we are all looking for and I would urge that we do not accept that part of Senator Bossie's amendment which would allow the dogs to be taken from their mothers at 6 weeks. I think that is too soon, there has been adequate testimony by responsible people and I am not saying that Senator Bossie is not responsible but I do say that people from pet shops, human shelters, veterinarians and so forth, have testified at quite some length that it is inadvisable to take a puppy from his mother and his siblings until he is at least 8 weeks old.

Sen. PRESTON: I also rise in opposition to Senator Bossie's suggested amendment. I checked out his objection this morning about whether or not it was illegal to inoculate at three months and I was told by those that have expertise in this field that that is just not so and I know that Senator Bossie is a dog lover. I don't see where this will hurt anybody, it does not affect any of the dogs that are given away and as to Senator Keeney's questions we can read the legislative intent into that because that is the way the committee interpreted it, that the dogs would not actually change hands until they are 8 weeks. I don't see the problem and I think



we should proceed with this and vote it as reported out of committee.

Sen. BOSSIE: I would like to know who your authorities are that say that dogs can be given inoculations before six months, is it a veterinarian?

Sen. PRESTON: Representative of the diagnostic clinic.

Sen. BOSSIE: So it is a lobbyist?

Sen. PRESTON: You could say that, they are very interested in the passage of these bills having to do with canines.

Division vote: 8 senators voted yea; 10 senators voted nay.

Amendment failed.

Ordered to third reading.

Sen. Bossie in the chair.

## COMMITTEE REPORTS

HB 374, increasing certification fees for psychologists and removing the requirements of citizenship. Ought to pass. Sen. McLaughlin for the committee.

Sen. McLAUGHLIN: Mr. President, members of the senate, all this bill is doing is increasing the fees and also removes the fact that they have to be a United States citizen to apply for license here in the state of New Hampshire.

Adopted. Ordered to third reading.

HB 132, prohibiting the transfer of property within 3 years of applying for town assistance. Ought to pass. Sen. McLaughlin for the committee.

Sen. McLAUGHLIN: This bill says prior to going on town assistance and so forth, if you have transferred your property for three years before that you cannot apply and get assistance. It is saying that you can't get rid of your property and go on assistance and figure the town or city is going to pay for what your aids may be.

Adopted. Ordered to third reading.

HB 844, requiring all commercial eating establishments or places where food is served to post in a conspicuous place a graphic display of the Heimlich or similar maneuver. Ought to pass. Sen. McLaughlin for the committee.

Sen. McLAUGHLIN: This bill in essence tells you you have to have a poster in commercial eating establishments showing that if a person has choked from eating some food or some particle as to what can be done to revive them immediately, it doesn't say where the sign has to be or where the post has to be, it does have to be though in an eating establishment where somebody can see it if they so desire.

Sen. PRESTON: Senator I appreciate what the bill attempts to do, will these be mailed out by the Department of Health or how will the operator be responsible for obtaining these on his own, or is it going to be done by the municipality?

Sen. McLAUGHLIN: As I understand the way the bill says it right now, it does not have to be mailed out by the Department of Health. I would say at the present time the way the bill is worded that you have to get it on your own.

Sen. PRESTON: If this bill passes in 60 days then on September 1st someone came into an eating establishment and this was not on the wall, posted conspicuously, what would the penalties be?

Sen. McLAUGHLIN: They would be guilty of a violation.

Sen. PRESTON: What would the fine or penalty be for that Senator?

Sen. McLAUGHLIN: Ah. . .

Sen. PRESTON: As the chairman of the committee sir, do you think that you could encourage someone from the Department of Health perhaps that has to do with inspecting the restaurants to so notify them.

Sen. McLAUGHLIN: Definitely.

Adopted. Ordered to third reading.

Sen. Bradley moved reconsideration on HB 374.

Sen. BRADLEY: I missed this one when it went by, it involves a question that we have discussed before on the

right of non-citizens to ply their trade in the state and I would like to have it back on second reading so we might put it on the table to consider an amendment to it.

Sen. FENNELLY: Senator Bradley, this proposed amendment did it happen to have anything to do with the aliens having permits or liquor licenses or things like that?

Sen. BRADLEY: It seems to be germane to that issue which is one of the reasons why it seems to me that we passed over it pretty quickly.

Division vote: 8 Senators voted yea; 9 Senators voted nay.  
Motion failed.

HB 979, relative to lighting the state house dome from sunset to 2:00 a.m. Ought to pass. Sen. Healy for the committee.

Sen. HEALY: A report was prepared on this from the Concord Electric Company by Representative Fenton, some of the Senators have it and some do not, we do not have enough copies.

Adopted. Ordered to third reading.

HB 1044, relative to the public employee labor relations law. Ought to pass. Sen. Healy for the committee.

Sen. Brown moved that HB 1044 be laid on the table.  
Adopted.

HB 1067, establishing a voluntary arbitration system for handling settlement disputes in welfare cases. Ought to pass. Sen. Poulsen for the committee.

Adopted. Ordered to third reading.

HB 769, establishing primary elections for the cities of Laconia and Somersworth. Ought to pass. Sen. Lamontagne for the committee.

Adopted. Ordered to third reading.

HB 1115, concerning AREA schools incurring indebtedness. Interim Study. Sen. Smith for the committee,

Adopted.

HB 1006, establishing Merrimack valley college as a fourth school in the university system. Ought to pass. Sen. Smith for the committee.

Sen. Monier moved to lay HB 1006 on the table.

Adopted.

Sen. Bradley moved that **HB 498** be recalled from the Governor's office.

Adopted.

Sen. Jacobson in the chair.

Sen. Bradley moved reconsideration of the action whereby the Senate ordered HB 498 to third reading.

Adopted.

Sen. Bradley moved to place HB 498 on second reading at the present time.

Adopted.

Sen. Bradley moved to lay HB 498, relative to the state's burden of proof in recommittal hearings for the criminally insane on the table.

Adopted.

Sen. Bradley moved that **HB 370** be recalled from the Governor's office.

Adopted.

Sen. Bradley moved reconsideration of the action whereby the Senate ordered HB 370 to third reading.

Adopted.

Sen. Bradley moved to place HB 370 on second reading at the present time.

Adopted.

Sen. Bradley moved to lay HB 370, relative to salaries of full-time justices of district courts on the table.

Adopted.



**Special Order 4:15**

HB 280, relative to ownership of certain unlicensed dogs and the penalty involved for not licensing a dog.

Question of committee amendment.

**Amendment to HB 280**

Amend RSA 466:14 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

466:14 Warrants; Proceedings. The mayor of each city and the selectmen of each town shall annually, within 10 days from June first, issue a warrant to one or more police officers or constables, directing them to proceed forthwith either to collect the fees due and pay them over to their respective town or city clerk, or any unlicensed dog may be seized and held in a town or city holding facility for a period of 7 days after which time full title to said dog shall pass to said facility, unless the owner of said dog has before the expiration of said period, caused said dog to be licensed and shall pay said facility the sum of \$3 per day for each day said dog has been kept and maintained by said shelter, plus any necessary veterinary fees incurred by said facility for the benefit of said dog.

Amendment adopted. Ordered to third reading.

Sen. Lamontagne spoke under Rule No. 44.

Sen. Smith in the chair.

**Special Order 4:30**

HB 703, establishing a dog control law.

Question of ought to pass.

Sen. Bossie moved to lay HB 703 on the table.

Adopted.

Sen. Bergeron moved that HB 993 be taken from the table.

Adopted.

HB 993, relative to the regulation of the sale of variable contracts.

Sen. Bergeron moved an amendment to HB 993.

#### Amendment to HB 993

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

relative to the regulation of the sale of variable contracts and permitting public employees to enter into a deferred compensation plan and authorizing the purchase of insurance and annuity contracts.

Amend the bill by striking out section 20 and inserting in place thereof the following:

20 New Chapter. Amend RSA by inserting after chapter 101-A the following new chapter:

#### CHAPTER 101-B

##### Public Employees Deferred Compensation Plan

101-B:1 Definition. In this chapter, "employee" means any person whether appointed, elected or under contract, providing services for the state, county, city, town or other political subdivision, for which compensation is paid.

101-B:2 Authorization to Contract. The state or any county, city, town or other political subdivision may, by contract, agree with any employee to defer, in whole or in part, any portion of that employee's compensation and may subsequently, with the consent of the employee, contract for, purchase or otherwise procure a fixed or variable life insurance or annuity contract for the purpose of funding a deferred compensation program for the employee, from any life underwriter duly licensed by this state who represents an insurance company licensed to contract business in this state.

101-B:3 Principal Officer; Authorized. The director or the principal officer of each state agency, department, board, commission, institution or the governing body of a town,

city, or county, or their authorized designee is hereby authorized to enter into such contractual agreements with employees of that particular state agency, department, board, commission, institution or municipality on behalf of the state to defer any portion of that employee's compensation.

101-B:4 Administration of Deferred Compensation Program. The administration of the deferred compensation program within each state agency, department, board, commission, institution or municipality shall be under the direction of the director or principal officer of that particular agency, department, board, commission, institution, or the governing body of the town, city, or county, or their authorized designees. Each county, city, town or other political subdivision shall designate an officer to administer the deferred compensation program. Payroll reductions shall be made, in each instance, by the appropriate payroll officer. The administrator of the deferred compensation program may contract with a private corporation or institution for providing consolidated billing and other administrative services.

101-B:5 Payment of Premiums. Notwithstanding any other provision of law to the contrary, those persons designated to administer the deferred compensation program are hereby authorized to make payment of premiums for the purchase of fixed or variable life insurance or annuity contracts under the deferred compensation program. Such payments shall not be construed to be a prohibited use of the general assets of the state, county, city or other political subdivision.

101-B:6 Addition to Other Retirement Benefits. The deferred compensation program established by this chapter shall exist and serve in addition to retirement, pension or benefit systems established by the state, county, city, town or other political subdivision, and no deferral of income under the deferred compensation program shall affect a reduction of any retirement, pension or other benefit provided by law. Any sum deferred under the deferred compensation program shall not be subject to state taxation until distribution is actually made to the employee.

101-B:7 Financial Liability of State, etc. The financial liability of the state, county, city, town or other political subdivision under a deferred compensation program shall be limited to the value of the particular fixed or variable life

insurance or annuity contract or contracts purchased on behalf of any employee.

21 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to third reading.

Sen. Bergeron moved to take HB 333 from the table.  
Adopted.

HB 333, providing a penalty for operating a restaurant or hotel after suspension of license for failure to pay meals and rooms taxes.

Adopted. Ordered to third reading.

Sen. Preston moved that HB 497 be taken from the table.  
Adopted.

HB 497, relative to the distribution of dog license fees and making an appropriation therefor.

Question of ought to pass.

Adopted.  
Referred to Finance under Rule No. 24.

Sen. Bradley moved that HB 498 be taken from the table.  
Adopted.

HB 498, relative to the state's burden of proof in recommittal hearings for the criminally insane.

Sen. Bradley moved an amendment to HB 498.

#### Amendment to HB 498

Amend section 2 of the bill by striking out same and inserting in place thereof the following:

2 Effective Date. This act shall take effect upon its passage.



Amendment adopted. Ordered to third reading.

Sen. Bergeron moved that HB 131 be taken from the table. Adopted.

HB 131, providing a different method of collecting penalties due the state for late certification filing of certain tax information.

Question of ought to pass.

Adopted. Ordered to third reading.

Sen. Bradley moved to take HB 782 from the table. Adopted.

HB 782, relative to effective dates for laws which have a municipal fiscal impact.

Sen. Bradley moved an amendment to HB 782.

#### Amendment to HB 782

Amend RSA 21:42 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

##### 21:42 Effective Dates.

I. Unless specifically provided otherwise by the general court for laws not having a municipal fiscal impact and except as provided in paragraph II for laws having a municipal fiscal impact, each law, other than a resolution, passed by the general court shall take effect on the sixtieth calendar day following passage, excluding the date on which it is signed by the governor, or the last date on which the general court acts on the matter, as the case may be.

II. (a) In this paragraph, "law which has a municipal fiscal impact" means any law determined by the office of legislative services to require a town or city to appropriate or expend funds; has the effect of decreasing the taxable valuation of a town or city by creating, expanding or increasing tax exemptions; or otherwise has the effect of decreasing revenues of a town or city.

(b) Each law determined to have a municipal fiscal impact shall contain an effective date, drafted by the office of legis-

lative services, which date shall be after the expiration of the period during which each town or city affected by the law is to adopt its budget for the fiscal year next following passage of the particular law.

III. The secretary of state shall record the date each law was enacted and its effective date on all engrossed and printed copies of such law, and such record shall be conclusive.

Amend section 2 of the bill by striking out same and inserting in place thereof the following:

2 Effective Date. This act shall take effect 90 days after its passage.

Amendment adopted. Ordered to third reading.

### ENROLLED BILLS REPORT

HJR 7, relative to state agency expenditures for fiscal year 1978.

HB 6, granting reciprocity to certain licensed cosmetologists from other jurisdictions.

HB 196, authorizing the issuance of non-driver's identification cards.

HB 290, relative to increasing the insurance requirements of motor vehicle drivers' schools.

HB 345, relative to the appointment of assistant secretaries of state.

HB 371, relative to the use of highway relocation funds.

HB 471, relative to the tobacco tax.

HB 688, relative to trust company director's stock holdings.

HB 826, establishing a primary for Rochester city elections.

HB 830, relative to road toll rebates.

HB 832, amending certain time limits under the uniform motor vehicle certificate of title law.

HB 854, authorizing the director of the division of motor vehicles or his agents to examine vehicles in certain locations.

HB 861, relative to the regulation of odometers.

HB 938, allowing permits for child care facilities.

HB 939, authorizing the director of the division of motor vehicles to issue a 5 day permit for a motor vehicle, trailer, semi-trailer or tractor.

HB 961, relative to the legitimation of children born out of wedlock.

HB 964, relative to a motor vehicle franchisor's responsibilities for warranties.

HB 1004, extending waiver time for participation in the school lunch program.

HB 1033, relative to the exchange of tax information between state and federal government.

HB 1057, relative to tax abatement on municipal airport property in Manchester and Londonderry.

HB 1104, changing the penalty for failure to file user of fuel reports with the road toll section.

SB 79, increasing the permissible amount of assets under the expanded elderly exemption law.

SB 111, to conform the state statutes and regulations to the requirements of the federal insecticide, fungicide and rodenticide act.

SB 122, prohibiting the manufacture, transportation, possession, or use of virulent hog cholera virus and redefining the word garbage in RSA 144 relative to the feeding of garbage to swine.

SB 140, relative to the liability of landowners.

SB 175, providing a penalty for purposely or knowingly covering a fire hydrant with snow or other debris.

SB 227, relative to the expiration dates of licenses granted to insurance companies, agents and adjusters.

HJR 4, for the purpose of requesting appropriate action by the Congress, acting by consent of 2/3 of both Houses to require, with certain exceptions, that the total of all federal appropriations may not exceed the total of all estimated federal revenues in any fiscal year.

Sen. Lamontagne for the committee.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Wednesday, June 8 at 11:00 a.m.

Adopted.

ANNOUNCEMENTS  
LATE SESSION  
Third Reading and Final Passage

HB 615, relative to interest charges charged upon all taxes other than resident taxes not paid on time.

HB 995, relating to the disposition of personalty in police department property rooms.

HB 1045, relative to the display of wheelchair symbol to indicate buildings accessible to handicapped and elderly persons.

HB 725, removing the requirement for filing financial statements with town or city clerks.

HB 724, prohibiting the posting of election advertising on highway rights-of-way.

HB 140, eliminating the requirement that at least one city or town intervene between an absentee voter and the place in which he is legally entitled to vote.

HB 899, relative to reporting vote totals by party for nominees of more than one party.

HB 478, relative to the governor issuing a certificate of election.

HB 22, establishing a recount procedure for votes at special meetings of towns with official Australian or nonpartisan ballots.

HB 1187, increasing the jurisdiction of the ballot-law commission.

HB 266, relative to meetings of supervisors of the checklist in cities and towns.

HB 487, relative to the publication of the Revised Statutes Annotated.

HB 326, adopting the provisions of the uniform vehicle code pertaining to the operation of emergency vehicles.

HB 1172, relative to filing dates for candidates in the primary for any elective office.

HB 127, requiring proof of residency in order to register and to vote.

HB 1091, relative to overseas citizens voting rights.

HB 139, providing for the final and public availability of checklists after every biennial election.

HB 1189, concerning the reporting of political expenditures, advertising and contributions by certain committees and certain candidates.



HB 679, relative to the fees for licensing dogs and dog keepers or breeders and requiring a health certificate on dogs sold by breeders and providing a late fee for failure to procure a license prior to June 1.

HB 374, increasing certification fees for psychologists and removing the requirement of citizenship.

HB 132, prohibiting the transfer of property within 3 years of applying for town assistance.

HB 844, requiring all commercial eating establishments or places where food is served to post in a conspicuous place a graphic display of the Heimlich or similar maneuver.

HB 979, relative to lighting the state house dome from sunset to 2:00 a.m.

HB 1067, establishing a voluntary arbitration system for handling settlement disputes in welfare cases.

HB 769, establishing primary elections for the cities of Laconia and Somersworth.

HB 280, relative to ownership of certain unlicensed dogs and the penalty involved for not licensing dogs.

HB 993, relative to the regulation of the sale of variable contracts and permitting public employees to enter into a deferred compensation plan and authorizing the purchase of insurance and annuity contracts.

HB 333, providing a penalty for operating a restaurant or hotel after suspension of license for failure to pay meals and rooms taxes.

HB 498, relative to the state's burden of proof in recommittal hearings for the criminally insane.

HB 131, providing a different method of collecting penalties due the state for late certification filing of certain tax information.

HB 782, relative to effective dates for laws which have a municipal fiscal impact.

Adopted.

Sen. Lamontagne moved to adjourn at 5:00 p.m.

Adopted

*Wednesday, June 8*

The Senate met at 11:00 a.m.

A quorum was present.

The prayer was offered by Rev. Dr. Vincent Fischer, Senate Chaplain.

Father, forgive us for the inconsistencies, and the attitudes in respecting our fellow member's party or position of thought. It is only by working together and by respecting one another, as well as the Lord—that we can rightly and freely accomplish our work in this Senate.

May the pettiness of the past take on a new outlook—as we go forward in the knowledge that through Him and with Him—“we shall overcome!”

Redeem us, Good Lord!

Amen

Sen. Keeney led the Pledge of Allegiance.

Sen. Rock served notice of reconsideration on HB 723.

### HOUSE MESSAGES HOUSE CONCURS IN AMENDMENTS

HB 498, relative to the state's burden of proof in recommittal hearings for the criminally insane.

HB 691, relative to a program for special education.

### HOUSE REFUSES TO CONCUR

SCR 2, to petition the Congress of the United States to call a convention to propose an amendment to the Constitution of the United States which guarantees that a student has the right to attend the public school nearest his home.

SB 91, relative to confidentiality of legislative budget assistant working papers and access to records and documents to perform post-audit functions.

SB 96, establishing an optional procedure to make emergency expenditures under the municipal budget law.

SB 110, relative to possession of account books and making of payments by a school district treasurer.

SB 198, restricting boating on Pow Wow River in Kingston.

**SB 199**, relative to failing to obey inspection requirements.

**SB 225**, making probate judges full time, providing permanent disability and retirement benefits for probate judges, directing the superior court to assign probate judges as marital masters, authorizing the use of lay persons as marital masters in certain cases, and making an appropriation therefor.

**SB 235**, establishing a study commission on child abuse and neglect and making an appropriation therefor.

**SB 317**, relative to elderly tax exemptions for residential real estate.

**SB 321**, establishing the office of state negotiations.

**SB 344**, providing for the appointment of pro tempore members of the personnel commission.

**SB 368**, permitting a referendum in the city of Berlin.

## HOUSE REFERRED TO INTERIM STUDY

**SB 121**, providing for the defense and **SB 121**, providing for the defense and indemnification of state officers and employees against certain claims.

**SB 151**, establishing the New Hampshire crime commission.

**SB 200**, to create a state district court system for Belknap, Carroll and Grafton counties, with full time judges, clerks and other personnel as state supported courts and making an appropriation therefor.

**SB 211**, permitting certain school districts to withdraw from supervisory union 53.

**SB 218**, concerning a statewide public school system performance evaluation.

**SB 271**, exempting certain governmental entities from the payment of motor vehicle road tolls.

**SB 272**, requiring notification of the owners of certain abandoned motor vehicles.

**SB 275**, providing for mandatory distribution of instructions on safely installing solid fuel heating appliances.

**SB 278**, relative to exempting certain motor vehicles from motor vehicle registration fees.

**SB 303**, establishing a department of corrections merging therein the state prison, the youth development center, the department of probation, and the board and department of parole.

**SB 353**, permitting the expenditures of certain unanticipated revenues pursuant to the municipal budget law.

### HOUSE CONCURS

**SB 331**, relative to rehearings on zoning board of adjustments decisions.

**SB 163**, relative to the fee for the renewal of land surveyor's certificates of registration.

**SB 226**, relative to credit life insurance and credit accident and health insurance.

**SB 123**, relative to the power of certain colleges to grant degrees.

**SB 164**, to amend the charter of St. Mary's-in-the-Mountains.

**SB 242**, relative to partnerships, associations and corporations holding an insurance agent's license.

**SB 190**, relative to the registration of lobbyists.

**SB 30**, enabling regional refuse disposal districts to create capital reserve funds.

**SB 136**, relative to the change of use of land subject to the current use tax.

**SB 219**, permitting a town on an optional fiscal year basis to hold a second session of the annual meeting.

**SB 56**, establishing an adoptive care act.

**SB 104**, relative to the stocking of fish by the fish and game department.

**SB 33**, relative to the duties and responsibilities of the property appraisal division of the department of revenue administration.

**SB 330**, relative to protests in zoning ordinance change.

**SB 339**, relative to withdrawal from the New Hampshire retirement system.

**SB 205**, exempting certain motor vehicles and building equipment from public highway weight, height and width limitations.

**SB 17**, permitting nonprofit social clubs holding a liquor



license to charge members and guests to cover entertainment costs.

**SB 135**, relative to public forest lands.

**SB 300**, relative to the registration of unauthorized dams.

## COMMITTEE REPORTS

HB 1117, providing for the local regulation of excavations. Ought to pass with amendment. Sen. Keeney for the committee.

### Amendment to HB 1117

Amend RSA 155-C:2, III as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

III. Excavation from area contiguous to, or from contiguous land in common ownership with, stationary manufacturing and processing plants in operation as of the effective date of this chapter which use earth obtained from such areas.

Amend RSA 155-C:4, VI as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

VI. Where the excavation would substantially damage a known aquifer, so designated by the United States Geological Survey.

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Existing Operations. Any owner of an existing excavation in use as of the effective date of this act and which is subject to this act may continue such existing excavation without a permit but shall perform restoration in compliance with RSA 155-C:5 within a reasonable period following the intended cessation of the excavation or any completed section thereof.

Sen. KEENEY: This bill allows local regulation of excavations and it is a public safeguard for the open excavations. The amendment is on page 12 of today's calendar and it makes three minor changes in the House Bill as it was amended and came to the Senate. It clarifies contiguous land which is already experiencing excavations and how long a period they would have to responsibly cover over the excavations once they are through and it substitutes the United States Geological Survey for designating problems where an excavation is or could damage a known aquifer. The original bill had the U.S. Oil Conservation Service in that capacity. The bill sets up exceptions to the local regulation and those are incidental construction to a home or a structure, excavation incidental to agriculture or landscaping and it makes provisions for the stationary manufacturing processes to have time to cover over their excavations once they are through. It establishes procedures for getting a local permit, filing fees, bonding a public hearing, appeals and local regulations and include the grandfather clause for those already doing excavations in local municipalities.

Amendment adopted. Ordered to third reading.

HB 816, relative to requiring a public hearing prior to reclamation of any pond by the fish and game department. Inexpedient to legislate. Sen. Foley for the committee.

Sen. FOLEY: The committee felt that this was just a duplication of effort on the part of the Fish and Game department, they always have hearings, they always advertise and this would just make them do a great deal of additional work and put a great deal more money on a department that is right now almost broke so we figured that at this time this bill should be inexpedient to legislate. It is really taken care of in every other way.

Adopted.

HB 249, relative to personnel of certain agencies which receive federal grants-in-aid. Ought to pass with amendment. Sen. Monier for the committee.

## Amendment to HB 249

Amend the bill by striking out section 2 and renumbering the existing section 3 to read as 2.

Sen. MONIER: The amendment that was offered by the committee is on page 12, it is relatively simple. It renumbers the things and also takes and deletes section 2 of the bill as it came over from the House. Incidentally, we do not have the amended bill in front of us. The original bill indicated that the department deputies as provided for by special statute of any agency that received special funds would become a classified employee. The original thing indicated from Mr. Lang and the AG etcetera that the first section of it that now reads in the amended version and you do not have it in front of you, I am sorry, would add the accountability of the directors, deputies and so forth. In 1950, the federal law was that a deputy appointed to a federal program had to be a classified employee. This however is no longer in effect. It does not apply. We still have it on the statutes and it is causing all kinds of problems because we are picking people up as deputies and classified employees and then if the program fades out we unclear so that Mr. Lang and the Attorney General and the others asked for section 1 to be put in which would rescind that current statute. In the House, however, they also added a whole section of number 2 which dealt with a lot of other things and actually made it very difficult for the deputy to be picked by the commissioner himself and it would also have to go back, be appointed and confirmed by governor and council. Most of us on the committee felt was directed to particular problems and had no relationship to what the original bill was which was to correct a statute that no longer is in effect and no longer has any applicability so we eliminated that from the original bill. I urge the committee to accept the report.

Amendment adopted. Ordered to third reading.

HB 870, to provide for the use of interpreters for the deaf for all administrative and judicial proceedings in which deaf persons are involved. Ought to pass with amendment and recommend that it be referred to finance. Sen. Bradley for the committee.

Sen. Monier in the chair.

Amendment to HB 870

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

to provide for the use of interpreters for the deaf for all administrative and judicial proceedings in which deaf persons are involved and relative to hearing dogs.

Amend section 2 of the bill by striking out same and inserting in place thereof the following:

2 Hearing Dogs. Amend RSA 167:42-a (supp) as inserted by 1965, 356:1 as amended by striking out said section and inserting in place thereof the following:

167:42-a Seeing Eye or Hearing Dogs.

I. It is lawful for any seeing eye dog or hearing dog to accompany his blind or deaf master into any hotel, restaurant or eating establishment, and it is unlawful for a person, directly or indirectly, either to prohibit, hinder or interfere with his doing so, if the blind or deaf master otherwise complies with the limitations applicable to sighted persons or persons with normal hearing.

II. Notwithstanding any other provision of the law to the contrary, wherever a seeing eye dog is permitted to accompany a blind person, a hearing dog shall be permitted to accompany a deaf person.

III. Any person violating the provisions of this section is guilty of a misdemeanor.

3 Hearing Dog Exempted. Amend RSA 466:8 as amended by striking out said section and inserting in place thereof the following:

466:8—Exemption from. No fee shall be required for the registration and licensing of a dog which has served with the forces of the United States during World War II and which has received an honorable discharge therefrom. No fee shall be required for the registration and licensing of a seeing eye dog which is used as a guide for a blind person or a hearing dog which is used by a deaf person.



4 Effective Date. This act shall take effect 60 days after its passage.

Sen. BRADLEY: The overall bill is a bill which guarantees the right to the deaf to have interpreters whenever they are involved in judicial or administrative hearings. Now all the amendment does is to take care of an oversight in previous legislation involving the dogs that are used by the deaf and the blind. We have a statute on the books which deals with seeing eye dogs, that allows seeing eye dogs to be taken into restaurants and that sort of thing that otherwise would be not permitted. Basically through an oversight the law doesn't apply to the hearing dogs that are used by the deaf people as an aid to them and all the amendment does is to make the situation equal between seeing eye dogs and hearing dogs.

Sen. BOSSIE: I refer you to page 13, section 466:a which provides that any seeing eye dog, I guess any dog that served in World War II and received an honorable discharge would not be required to pay a license fee. How many dogs do you have that are alive?

Sen. BRADLEY: Probably not too many are left Senator and that I believe is part of the existing seeing eye dog statute which apparently was passed some time ago and all we are doing is really inserting in the seeing eye dog law the word hearing dogs.

Sen. KEENEY: Senator Bradley, although the committee did not include in the amendment any financial or appropriation for the cost of this bill is it your understanding that the bill will still go to the Senate Finance Committee because it does involve expenses to the state?

Sen. BRADLEY: Yes I was going to say that when we got over the amendment. There are financial implications to this bill and even though there is no appropriation in it it is our recommendation that it should go to Finance after we have acted on our report. The basic bill itself sets up a right on the part of the deaf person to have an interpreter assigned to them at no cost to them whenever they are involved in judicial or administrative proceedings. The bill provides that the appointing authority, no whether that is the judge, whether it is the planning board, whether it is some administrative agency of the state or whatever will cover the cost of the interpreter. Now we are told that there are federal monies available for this sort of thing and that it shouldn't be an

expense to the state or municipalities but our committee felt that really incapable of making that judgement hence we recommend that if the senate sees fit to accept the report that will go to finance just like an appropriation.

Amendment adopted. Referred to Finance under Rule No. 24.

HB 858, correcting errors, omissions and inconsistencies in the RSA and session laws and conforming existing law to the criminal code. Ought to pass with amendment. Sen. Bradley for the committee.

#### Amendment to HB 858

Amend the bill by striking out sections 19 and 20 and renumbering sections 21-58 to read as

19 , 20 , 21 , 22 , 23 , 24 , 25 , 26 , 27 , 28 , 29 , 30 , 31 , 32 , 33 , 34 , 35 , 36 , 37 , 38 , 39 , 40 , 41 , 42 , 43 , 44 , 45 , 46 , 47 , 48 , 49 , 50 , 51 , 52 , 53 , 54 , 55 , 56 , respectively.

Sen. BRADLEY: This is what should be pure and simply housekeeping. It is the annual errors and omissions bill. Don't ask me why it is in judiciary. The bill basically does things that where there were typographical errors or omissions in the last session, which are nonsubstantive in nature, it corrects those where there are statutes on the books that are written in antiquated terminology not incorporated in the language of the criminal code, all that kind of thing. Now there were two sections in it that amended the two sections on the statute books dealing with abortions because those statutes do not talk in terms of the criminal code. It really doesn't change anything of substance but it did change something to do with the abortion laws and that got very controversial in the House and that seems to be what the people are talking about in the bill. What the amendment does is to remove from this law any reference one way or the other, housekeeping or otherwise, to the abortion statutes. So this bill is now with the amendment, if you adopt the amendment, it is pure and simple housekeeping, errors and omission bill.

Sen. PRESTON: Senator Bradley could you tell me what

part of the bill that reference is on abortions and what has been taken out?

Sen. BRADLEY: Sections 19 and 20 rewrote the two sections which are presently on the statute books to make them conform with the criminal code. Those sections we are recommending by the amendment on page 25, strike out sections 19 and 20 so that those statutes are going to stay just the same whether they are antiquated, unconstitutional, good, bad or indifferent, they are going to stay untouched by this bill. So this bill with the amendment, says nothing about abortions.

Sen. PRESTON: In other words Senator Bradley, if I vote for this bill I am not voting for anything just for the record, having to do with any changes in abortion laws whatsoever, they have been stricken out in their entirety from the bill as it is before us today.

Sen. BRADLEY: Right, if you vote for the amendment, that is what you will be doing. That will strike out any reference on abortion, they will be gone from the bill as if they were never there. And then the bill will just be plain old simple errors and omissions.

Amendment adopted. Ordered to third reading.

HB 235, to permit stolen and other property to be restored to rightful owners in advance of trial. Ought to pass with amendment. Sen. Bradley for the committee.

#### Amendment to HB 235

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

to permit stolen and other property to be restored to rightful owners in advance of trial or appeal.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Returning Items to Rightful Owners. Amend RSA 595-A:6 as inserted by 1969, 317:1 by striking out said section and inserting in place thereof the following:

595-A:6 Seizure, Custody and Disposition of Articles; Exceptions. If an officer in the execution of a search warrant, or by some other authorized method, finds property or articles he is empowered to take, he shall seize and safely keep them under the direction of the court or justice so long as necessary to permit them to be produced or used as evidence in any trial. Upon application by a prosecutor, defendant, or civil claimants, the court, prior to trial or upon an appeal after trial, may, upon notice to a defendant and hearing, order returned to the rightful owners any stolen, embezzled or fraudulently obtained property, or any other property of evidential value, not constituting contraband. This section shall apply regardless of how possession of said property was obtained by the state. Photographs or other identification or analysis made of said returned property shall be admissible at trial as secondary evidence, in lieu of the originals, for all relevant purposes, including ownership. In the case of unknown, unapprehended or defendants wilfully absent from the jurisdiction, the court shall have discretion to appoint a guardian ad litem to represent the interest of such unknown or absent defendants. The judicial findings on such matters as ownership, identification, chain of possession or value made at such an evidentiary hearing for the restoration of property to the rightful owners, shall thereafter be admissible at trial, to be considered with other evidence on the same issues, if any, as may be admitted before the finder of fact. All other property seized in execution of a search warrant, or otherwise coming into the hands of the police, shall be disposed of as the court or justice orders and may be forfeited and either sold or destroyed as the public interest requires in the discretion of the court or justice, and in accordance with due process of law. Any property, the forfeiture and disposition of which is specified in any general or special law, shall be disposed of in accordance therewith.

Sen. BRADLEY: The amendment is printed on page 25 and constitutes the entire bill except for the effective date. This is a bill introduced by Representative Dickerson, it basically does what the title says, it allows for a person whose goods have been taken forever in connection with a criminal trial to be restored to him after a certain procedure is followed. Typically under existing statutes the following thing



can happen: a person has their car stolen or something else stolen, the police recover the item, the person who has been wronged and had his property stolen, wants his property back so he can drive home. In one case there was a florist who had his house trailer stolen, or his camping trailer stolen and he wanted to continue his camping trip and the police said, no you can't have it we need it for evidence to try that bad guy who stole it. That is in the opinion of the committee carrying the thing a little too far and this will restore a little balance in favor of the victim. So this bill sets up a procedure by which with notice to the defendant and his attorney, the rightful owner can claim it back, if it is necessary photographs and other sorts of things can be taken which would be used at trial instead of the actual item.

Sen. KEENEY: Senator Bradley, some time ago we had a fishing and game bill and the fish and game department said that they do return animals and so forth that they have confiscated. Would this bill guarantee that somebody could have for instance a deer returned after a case was completed?

Sen. BRADLEY: Ya, I think if the deer was what was taken. Let's see it says, "if an officer in an execution of a search warrant or by some other authorized method takes into possession property, that would be something which he could get back. They would at least have a right to petition to get it back. The court would have the power if they found that the article was indispensable to the case to deny the petition, so it is not a guaranteed right to get it back but there is enough protection built in here that in almost all cases it would seem to me that they ought to get it back.

Sen. KEENEY: It would be stronger than simply the policy of the department.

Sen. BRADLEY: That's right.

Sen. BROWN: Senator I would like to give you a case that happened down in my district. A young man had his motorcycle stolen. The police officer or whoever, decided that it should be kept and used as evidence in the trial. That trial perhaps didn't come up for a year, or say two years so he was without his motorcycle. Yet the person who stole the motorcycle was able to go out and buy one whereas the victim, what effect does this bill have on that situation?

Sen. BRADLEY: This bill was designed to rectify that precise situation to allow the young man whose property was wrongly taken to get it back and to provide if it is necessary,

you could take pictures of it, provide obviously the identification of it and so on. And you use those at the trial rather than bringing in the actual article.

Sen. HEALY: Senator it wasn't too long ago that we passed a bill here in reference to the county or the town or the police taking over a car that was involved in say a burglary. If the man in the burglary held title to the car and he was arrested and prosecuted, does that in any way conflict with this bill? Do you recall it, the Sanborn bill?

Sen. BRADLEY: This was the Sanborn bill and I think really goes to a different situation where it is the bad guy—the Sanborn bill deals with property owned by the bad guy. This bill deals with property owned by the good guy.

Amendment adopted. Ordered to third reading.

HB 799, including divorce among the events that are reportable to the registrar of vital statistics. Ought to pass with amendment. Sen. Foley for the committee.

#### Amendment to HB 799

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Clerks' Returns; Required Information Changed. Amend RSA 458:15 by striking out said section and inserting in place thereof the following:

458:15 Clerks' Returns. The clerks of the superior court shall, at the close of each term in their respective counties at which divorces are granted, make returns to the registrar of vital statistics.

4 Effective Date. This act shall take effect 60 days after its passage.

Sen. FOLEY: Mr. Chairman, this bill simply because divorces are so prevalent and they are a way of life at the present time, rather than just include births, deaths and marriages in the register of vital statistics, each month they have included divorce.

Amendment adopted.

Sen. Keeney moved that HB 799 be laid on the table.

Adopted.

HB 931, relative to the ability of a defendant to pay a judgment. Ought to pass. Sen. Bradley for the committee.

Sen. BRADLEY: There is presently a law on the books which under certain circumstances, allows the judge to order weekly payments by a defendant who has a judgment against him. That was a law that we put on the books only in the last two or three years. That law has not worked out in each case and there seems to be ambiguities in the law and basically what this bill is doing is rewriting that section to make it more workable and in particular give the judge the power to inquire into the defendant's ability to pay the judgment and to put some teeth into this particular law.

Adopted. Ordered to third reading.

HB 1069, relative to municipalities employing prosecutors for district or municipal courts. Ought to pass. Sen. Bossie for the committee.

Sen. BOSSIE: Mr. President, this bill would simply amend RSA 31 and provide that towns who desire and who have courts may hire a prosecutor to represent them in criminal cases before their courts. It is a very simply bill, it is an authorizing bill, there was testimony in favor of it, there was no opposition to it. We would encourage the Senate to vote its passage.

Adopted. Ordered to third reading.

HB 1087, to extend the voluntary commitment of certain patients at New Hampshire hospital. Ought to pass. Sen. Bradley for the committee.

Sen. BRADLEY: This is a bill that is urged strongly by Major Wheelock who sent a letter to the committee. It permits patients at the hospital whose commitments have been rendered null and void by a law back in 1973 to be admitted on a voluntary basis for no longer than 4 years rather than the 2 year period now on the general law. There didn't seem to be any opposition to the bill and the hospital considers it to be very important. Apparently a number of patients will be affected by it.

Adopted. Ordered to third reading.

HB 1134, making the person chargeable by law for a child's support and necessities primarily liable for the expenses of a neglected or delinquent child or person in need of supervision. Ought to pass. Sen. Bradley for the committee.

Sen. KEENEY: This would make the person chargeable by law for child support to be also liable for the expenses of a neglected or a delinquent child or one in need of supervision. I think I am going to have to defer to the chairman.

Sen. Bradley moved that HB 1134 be laid on the table. Adopted.

HB 386, relative to liens on vessels, boats and vessel or boat motors. Ought to pass. Sen. Gardner for the committee.

Sen. GARDNER: On vessels, boats or power motors or anything that is in repair at the marina. At the present time the marinas cannot hold a boat if they have done extensive repairs and someone comes and takes the boat from the yard. They have no recourse whatsoever. This bill here would provide for the same protection that they have for automobiles where they have a lien on the boat which they cannot have at the present time. The bankers felt they were being left out so they got together with the marinas and they have all worked out something they are all in favor of and the marinas have the privilege of having a lien and can possess the boat which they never could before and I urge that you pass this bill.

Adopted. Ordered to third reading.

HB 662, amending the methods of giving proof of financial responsibility. Ought to pass. Sen. Gardner for the committee.

Sen. GARDNER: Mr. President this is a housekeeping bill. In the section 1963 they amended the RSA 262:22, 23 and 24, they were repealed and they were superseded by 262a, 67 and 69. Now this was overlooked and the sections were never taken out. This bill replaces them with the proper



current statutory references RSA 262, 23 does not exist but 267a 67 does remove 262, 23 and replaces it by 267a 67.

Adopted. Ordered to third reading.

HB 680, relating to the replacement and road repair of a certain bridge between Walpole, New Hampshire and Bellows Falls, Vermont. Ought to pass. Sen. Poulsen for the committee.

Sen. POULSEN: This bill appropriates the sum of a million dollars from the highway fund to plan and build a bridge from Walpole to Bellows Falls. The bridge that is presently there was banned some years ago for being unsafe. People have been using the bridge and this will replace the bridge at its present site which what the people there seem to want.

Referred to Finance under rule No. 24.

#### ENROLLED BILLS AMENDMENT

HB 103, relative to licensing fees for real estate brokers and salesmen.

Sen. Bergeron for the committee.

#### Enrolled Amendment to HB 103

Amend section 2 of the bill by striking out lines 1 and 2 and inserting in place thereof the following:

2 Fees. Amend RSA 331-A:4-a (supp) as inserted by 1963, 269:2 as amended by striking out in line 9 the words "fifteen dollars" and inserting in place thereof

Sen. BERGERON: Mr. President, this amendment makes a correction in the technical amending language of section 2 of the bill.

Amendment adopted.

**SB 290**, relative to the state library acting in an advisory

capacity to state institutional libraries. Sen. Bergeron for the committee.

### Enrolled Amendment to **SB 290**

Amend RSA 201-A:2, VI as inserted by section 1 of the bill by striking out line 9 and inserting in place thereof the following:

institutional library services and publish statistics on a regular basis;

Sen. BERGERON: Mr. President this amendment makes a grammatical correction by changing institution to institutional where it is used as an adjective.

Amendment adopted.

**SB 310**, which changes certain laws which refer to game animals, game birds, fur-bearers and fish to the general category of wildlife.

Sen. Bergeron for the committee.

### Enrolled Amendment to **SB 310**

Amend section 13 of the bill by striking out line 3 and inserting in place thereof the following:

207:26 Killing by Land Owner of Bird or Animal Inflicting Damage. A

Amendment adopted.

## HOUSE MESSAGES HOUSE REQUESTS CONCURRENCE IN AMENDMENTS

**SB 293**, relative to wood processing mills.

See House record pg. 2677.

Sen. Poulsen moved that the Senate concur with the amendment.

Adopted.

**SB 249**, relative to the definition of rule in the administrative procedures act.

Sen. Brown moved that the Senate nonconcur in the amendment and set up a committee of conference.

Adopted.

The Chair appointed Sens. Brown, Poulsen, and Bossie.

#### HOUSE REQUESTS CONCURRENCE INTRODUCTION OF HOUSE BILL AFTER THE DEAD- LINE WITH APPROVAL OF 2/3 OF THE JOINT RULES COMMITTEE

##### First and Second Reading and Referral

HB 1193, reinstating save the Mill Society as a voluntary corporation. To Environment.

#### HOUSE REQUESTS CONCURRENCE IN AMENDMENT

**SB 6**, providing for a power of attorney which survives disability or incompetence of the principal.

Sen. Bradley moved that the Senate nonconcur in the amendment and set up a committee of conference.

Adopted.

The Chair appointed Sens. Bradley, Keeney and Bossie.

#### COMMITTEE REPORTS

HB 505, relative to parking facilities at Hampton Beach and making an appropriation therefor. Ought to pass. Sen. Blaisdell for the committee.

Sen. BLAISDELL: This bill provides for the purchase and installation of clock-type parking meters at Hampton parking lot. The sum of \$12,000 is appropriated for this purpose. Also appropriated is \$70,500 to replace the present parking meters on the Hampton Beach boulevard. Five year bonds will be issued for the total amount of \$82,500. Estimated revenue for these new meters will be \$112,000 up from the present \$42,000. This revenue by the way will be deposited in the Hampton Beach parking meter account. Senate Finance asks your unanimous consent.

Adopted. Ordered to third reading.

HB 517, providing for the acquisition of a tract of land to be known as the Pine River state forest and making an appropriation therefor. Ought to pass. Sen. Smith for the committee.

Sen. SMITH: This bill provides for the acquisition of the Pine River forest, what will be known as the Pine River forest a 3300 acre tract in the towns of Ossipee and Epping. There is an appropriation for this, a bonding in the amount of \$412,000 from federal funds and \$462,000 of state funds. This is one of the last large tracts in that part of the state and it is a vital one for the protection of that area and for the state park and I hope the senate will go along with it.

Sen. PROVOST: Senator two years ago they said there was at last tract when we bought Pine River Forest, is that going to be the last?

Sen. SMITH: This last tract in that area of the state there is no real park area of any comparable size and it is a very unique piece of land and river area.

Sen. PRESTON: I oppose the bill and acquisition of land but in this case Mr. President I strongly support it, it is a one owner piece of property and an accession of the state that will be stir a lot of interests with the tourists and everyone in the area is in agreement with it and on a business-like basis it is a good buy for the state of New Hampshire so I would like to join Senator Smith as shocking as that might be to some of my fellow members.

Sen. Jacobson in the chair.

Adopted. Ordered to third reading.

HB 479, relative to disability retirement benefits under the NH retirement system. Ought to pass. Sen. Trowbridge for the committee.

Sen. TROWBRIDGE: What this bill deals with is not as important as what it doesn't deal with. We had the problems with disability on the retirement system and this bill will provide that if a person does go on disability that he has to come back and take a medical examination each year so that there will be no question that he is either still disabled or not disabled. The real thing is an inflation-type issue. At the present time a person who is disabled can go out and get other work than the work that he used to do but he is allowed an allo-



wance only according to the amount of salary that he used to have. Since everything is inflated if he goes out and gets a part-time job of \$4,000 and he used to earn \$10,000 he is only allowed \$6,000 under the disability. And sometimes, the older disabled people feel that inflation has taken it to the point where his part-time job is now more than his old original job salary. And so section b of the bill in each case allows him the offset, taking inflation of the present salary of his old job as being the measure of which you offset and the third thing that thing that we did not change was that a proposal that if you were disabled you could get both social security and workmen's compensation which would have given you 133% of your salary. We did not accept that amendment, it is not in the bill and all the things in here cover firemen, all the sections of the retirement board so that they are now all consistent so I think HB 479 is a worthwhile measure and though it doesn't appear like much, it has been studied.

Adopted. Ordered to third reading.

HB 1096, establishing and funding a highway transportation fund to aid the elderly and handicapped. Refer to Interim Study Committee—Senate Public Institutions. Sen. Sanborn for the committee.

Sen. SANBORN: We had quite a hearing on this bill and there seemed to be some controversy relative to the bill. Also, to the request that this money to fund this transportation of the elderly to come from highway funds. There was considerable question as to whether this was constitutionally correct as a highway fund, as you know is established for the highway department to maintain our highways not to provide busing and so forth. Because of some of the ramifications of some of the funding etcetera that went along with this bill it was felt by the committee and public institutions being part of the finance committee agreed that this bill should be sent to them for interim study. We recommend that this should happen.

Sen. MONIER: Senator was it recognized by the committee that this attempt by Representative Richardson had been in terms of trying to organize transportation particularly the disjointed and fragmented transportation that we have on the elderly?

Sen. SANBORN: This was and Representative Richardson was there and speaking for his bill but again the area of the funding and so forth was in question and it was something that we could not determine at this time.

Sen. MONIER: Will the issue on this and I keep using the term, fragmented transportation systems that we have on the different programs and overlapping routes etc. for the elderly, handicapped etc., will they be dealt with in this interim study?

Sen. SANBORN: We have been assured by the chairman of the Public Institutions Committee that it will be dealt with.

Adopted.

HB 261, to reimburse the town of Dummer for revenue lost due to the taking of Pontook Dam and making an appropriation therefor. Ought to pass with amendment. Sen. Sanborn for the committee.

#### Amendment to HB 261

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

to reimburse the town of Dummer for revenue lost due to the taking of Pontook dam and to provide for payment of claims to Kenneth M. Beck and Rufus W. Bly and making an appropriation therefor.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Appropriation. The sum of \$2,000 is hereby appropriated for the fiscal year ending June 30, 1977, to be paid to the town of Dummer, in lieu of taxes on Pontook dam. The governor is authorized to draw his warrant for the sums hereby appropriated out of any money in the treasury not otherwise appropriated.

2 Reimbursement to Kenneth M. Beck. The sum of \$41.45 is hereby appropriated to be paid to Kenneth M. Beck to reimburse him for articles stolen from the Oak Hill fire tower. Said payment shall be in full and final payment

of all claims against the state for said reimbursement. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

3 Reimbursement to Rufus W. Bly. The sum of \$113.40 is hereby appropriated to be paid to Rufus W. Bly to reimburse him for articles stolen from the Red Hill fire tower. Said payment shall be in full and final payment of all claims against the state for said reimbursement. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

4 Effective Date. This act shall take effect upon its passage.

Sen. SANBORN: The amendment is on page 21 of today's calendar and hopefully this is the last time that we will see the town of Dummer looking for money in lieu of taxes. What the amendment does is change a figure to the amount to be given to the town to \$2,000 for this year. Also brought in very late was a request from forest fire service where two of the fire towers had been broken into and the belongings of the watchman stolen. That is the second part of the amendment and as you will note it isn't a very large amount, I think one of them is just over \$100 and the other just under. One was Red Hill and the other one was Oak Hill. We had no other place at this time to reimburse these people for their lost personal belongings and added it into this amendment. We assure you that this is a good bill. We feel that the town of Dummer and as we understand in the future will be taken care of in lieu of taxes through the Department of DRED and so I say again this will probably be the last time that we hear from Dummer in lieu of taxes. The question is on the amendment as offered by the committee.

Amendment adopted. Ordered to third reading.

HB 284, relative to transfers of classification in the retirement system. Ought to pass with amendment. Sen. McLaughlin for the committee.

## Amendment to HB 284

Amend the title of the bill by striking out same and inserting in place thereof the following:

## AN ACT

relative to transfer of classification in the retirement system and making the deputy commissioner of safety a group II member of said system and making an appropriation therefor.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Retirement; Deputy Commissioner of Safety Included in Group II. Amend RSA 100-A:1, VII (supp) as inserted by 1967, 134:1 as amended by inserting in line 3 after the words "commissioner of safety" the following (deputy commissioner of safety,) so that said paragraph as amended shall read as follows:

VII. "Permanent policemen" shall mean any person, male or female, who is a chief, deputy chief, marshal, deputy marshal, colonel, major, captain, lieutenant, sergeant, officer of other rank, commissioner of safety, deputy commissioner of safety, field representative of the police standards and training council, director of fish and game, inspector, chief clerk, clerk, radio dispatcher, radio engineer or operator, patrolman, trooper, detective, investigator, mechanic, electrician, laboratory worker or other technical expert regularly employed on full time duty by a police department or police force of the state, or of any county, city, town, village or precinct in the state and permanent correctional line personnel of the state prison, including directors of treatment, the warden, deputy wardens, the superintendent of prison industries, permanent civilian employees of prison industries, permanent classified maintenance, farm and kitchen personnel, and rehabilitation counselors. In all cases of doubt, the board of trustees shall determine whether any person is a permanent policeman as defined herein.

3 Transferring Deputy Commissioner of Safety from Group I to Group II of New Hampshire Retirement System. The deputy commissioner of safety shall be transferred



from group I to group II of the New Hampshire retirement system and shall receive group II credit for all prior years' service provided that he shall pay, before being so transferred, the difference between his group I contributions for his service in that category and what his contribution would have been if he had been in group II for that period, as determined by the board of trustees of the retirement system.

4 Appropriation. There is hereby appropriated, for the purposes of section 3 of this act, \$2,451 from the highway benefit adjustment fund and \$129 from the general fund benefit adjustment fund for fiscal year 1978.

5 Effective Date.

I. Section one of this act shall take effect upon its passage.

II. Sections 2 and 3 of this act shall take effect 60 days after its passage.

Sen. McLAUGHLIN: The amendment is on page 27 and 28. All the amendment is actually doing here is to put the deputy director of safety, Earl Sweeney back into Class II, he was in the Group I before had that title, but for twelve years prior to that he was in Group II, he should be in Group II and what we are doing is put him back in where he belongs.

Amendment adopted. Ordered to third reading.

HB 828, creating the position of deputy commissioner of health and welfare. Ought to pass with amendment. Sen. Trowbridge for the committee.

Amendment to HB 828

Amend RSA 126-A:4-d as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

126-A:4-d Deputy Commissioner of Health and Welfare. Subject to the approval of the governor and council, the commissioner of health and welfare shall appoint a deputy commissioner who shall serve for a term of 5 years. He shall perform such duties as may be assigned to him by the commissioner, which may include, but not be limited to the

authority and power with approval of the commissioner to direct and supervise the operation and administration of any division of the department. The annual salary of the deputy commissioner shall be as prescribed in RSA 94:1-4.

Sen. TROWBRIDGE: The amendment is on page 29 and you will recall the time when we had no Commissioner of Health and Welfare and there was no one in power at that time under the statutes to as a deputy, to carry on the provisions of the Department. So we had to have an assistant commissioner do it and it didn't work out that well. Secondly, they are moving around some positions in doing this that Mr. Wood who assistant commissioner would move around and will end up with no new body in all of this transfer, it is just that we will have a deputy commissioner who is appointed for a five year term, that is the main thing in the amendment, that he has a term of office instead of being subject to the will of the commissioner. But he will have the authority to act in the absence of the commissioner. The salary is based on the salary scale for such positions. Really there are no extra dials in this at all.

Amendment adopted. Ordered to third reading.

HB 876, relative to prior service credit of group I members of the retirement system. Ought to pass with amendment. Sen. Trowbridge for the committee.

#### Amendment to HB 876

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Study Authorized. The board of trustees of the New Hampshire retirement system is hereby authorized to circulate notice of the possible reopening of prior service credit provisions of the New Hampshire retirement system to certain members of that system or predecessor systems as follows: Each active member of the New Hampshire retirement system group I or each person who is an active member of the New Hampshire teachers retirement system or the employees retirement system of New Hampshire in service on the effective date of this act shall be entitled to

file notice on a form prescribed by the board of trustees of all service prior to the date of the establishment of the systems created by RSA 100 and RSA 192, not otherwise credited, and further provided that such member was an active member of the system created by RSA 192 after July 1, 1950 and prior to July 1, 1967 or an active member of the system created by RSA 100 after July 1, 1945 and prior to July 1, 1967. Such notice shall be filed with the board of trustees on or before January 1, 1978.

Sen. TROWBRIDGE: Again, the amendment starts on page 29. We have had a big problem but we have had it for a long time, the retirement system, with many persons who worked a long time for the state of New Hampshire prior to 1957. In some cases prior to July 1, 1950. Those people let's say who worked from 1937 until 1950 got no service requirement because there was no retirement system. They may be 13 years without any credit for that service to the state. Then when they did in fact put in the retirement system, you had to be onboard from the day the retirement system started and it started at various dates for various programs. Some persons might have been teaching from 1937 to 1949 and then went off for five years, came back into the system because they weren't there on July 1, 1950 they got no credit for the period 1937 till 1949. This inequity has been there for a long time and obviously the number of people is dwindling. This bill would simply instruct the retirement board to go out and make a survey of how many people there are and how many service credit years that there are involved so that you could come back and calculate what it would cost to give prior service credit. You have to do a survey of the system and that is what the amendment does. It does not authorize a big actuarial study, that would cost a lot of money. We figure we can do that almost by ourselves.

Amendment adopted. Ordered to third reading.

## INTRODUCTION OF GUESTS

HB 78, increasing the fees for hunting and fishing licenses; revising the fees for members of the armed forces; requiring an agents special accounting for the period ending June 26, 1977. Ought to pass. Sen. Blaisdell for the committee.

Sen. BLAISDELL: This bill will increase the fee for hunting and fishing licenses. It would also provide for a free license to the elderly to be issued at age 65 instead of the present age of 68 and I hope Senator Rock takes notice of this that I am reporting this out since we had quite a discussion about this a couple of years ago. It will now be free fishing and hunting licenses to the elderly to be issued at age 65. The bill also provides for a \$10.50 fee for a serviceman's license and repeals that section on the special licenses for non-resident students in the state. I think the most important part of the bill, the revenue estimates for this bill indicates that in the first year of the biennium there will be an increase of \$324,000 to the fish and game department and in the second year of the biennium there will be an increase of \$498,000. I would hope that you will pass this as Senate Finance is unanimous.

Adopted. Ordered to third reading.

Sen. Fennelly, Bergeron, and Saggiotes recorded in opposition.

HB 1181, relative to prorating motor vehicle permit fees. Ought to pass with amendment. Sen. Lamontagne for the committee.

#### Amendment to HB 1181

Amend RSA 260:27, V as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

V. If the renewal permit plus the previous permit for the same vehicle equal more than 16 months at the same mill rate than the permit fee for the renewal registration shall be reduced by 1/3, except when mill rate has dropped to 3 mills.

Amendment adopted. Ordered to third reading.

HB 809, relative to staff requirements for the bureau of certificate of title in the Division of Motor Vehicles of the de-



partment of Safety. Ought to pass. Sen. Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, and members of the Senate, right at the present time the title bureau is restricted to 28 employees and what this bill does it strikes out the amount of employees so that the director may hire employees as is so needed for the Department of the Title Bureau.

Adopted. Ordered to third reading.

HB 244, relative to compensation of deputy registers of probate. Ought to pass. Sen. Rock for the committee.

Sen. ROCK: Thank you Mr. President. HB 244 provides an increase in salary for the deputy registrars of probate and the pay increase is retroactive to June 20, 1975. The purpose of the bill is to rectify an error. If you remember in 1975 all other state employees got the flat, across the board increase. That pay raise, however, was not written in to the deputy registrars of probate. They were left out in the budget, the bill is retroactive to the time of the pay raise for all other state employees. The amount is \$520 the same as all other state employees got and that is the simple bill.

Sen. Provost moved an amendment to HB 244.

#### Floor Amendment to HB 244

Amend the title of the bill by striking out same same and inserting in place thereof the following:

#### AN ACT

relative to compensation of deputy registers of probate and prohibiting the register of probate from holding other public office.

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 Register of Probate. Amend RSA 548 by inserting after section 1 the following new section:

548:1-a Other Public Office Prohibited. No register of probate shall hold any other public office, and each register of probate shall devote his entire time to the service of the state in the discharge of his official duties.

5 Effective Date. This act shall take effect upon its passage.

Sen. PROVOST: HB 244 should have come in with ought to pass with amendment but somehow it was omitted. What the amendment to this bill does is "no registrar of probate shall hold any other public office and each registrar of probate shall devote his entire time to the service of the state in the discharge of his official duties."

Sen. HEALY: Senator Provost don't you consider this an unusual amendment since other county officials are not included in this type of proposal?

Sen. PROVOST: No this has been done before, we have a bill coming in with county commissioners coming that way also.

Sen. HEALY: How about the registrar of deeds?

Sen. PROVOST: He's on a salary he is not on fees. He is a salaried man.

Sen. HEALY: Would you consider this a biased amendment really?

Sen. PROVOST: I don't believe so.

Sen. HEALY: Thank you very much.

Division vote: 11 Senators voted yea; 7 Senators voted nay.  
Amendment adopted. Ordered to third reading.

HB 57, relative to security deposits of tenants of residential premises. Ought to pass with amendment. Sen. Bradley for the committee.

#### Amendment to HB 57

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Security Deposits. Amend RSA 477 by inserting after section 47 the following new section:

477:48 Security Deposits.

I. In this section:

(a) "Landlord" means a person and his or her or its employees, officers, or agents who rents or leases to another person 25 or more rental units, including space in a mobile home park as regulated by RSA 205-A and in a mobile home, for other than vacation or recreational purposes.

(b) "Security deposit" means all funds in excess of the monthly rent which are transferred from the tenant to the landlord for any purpose.

(c) "Tenant" means any person who rents or leases residential premises, owned by another, including space in a mobile home park regulated by RSA 205-A and in a mobile home, for other than vacation or recreational purposes.

(d) "Rental unit" means each separate part of any residential premises which has full facilities for habitation, including contiguous living, sleeping, kitchen and bathroom facilities, which is held out for rental by the landlord.

II. A landlord may not demand or receive any security deposit in an amount or value in excess of one month's rent or \$100, whichever is greater, and upon receiving a deposit from a tenant shall forthwith deliver to the tenant a signed receipt stating the amount of the deposit and specifying the place where such deposit or bond for such deposit pursuant to subparagraph III, (c) of this section will be held, and notifying the tenant that any conditions in the rental unit in need of repair or correction should be noted on the receipt or given to the landlord in writing within 5 days of occupancy.

III. (a) Security deposits held by a landlord continue to be the money of the tenant and shall be held in trust by the person with whom such deposit is made and shall not be mingled with the personal monies or become an asset of the landlord until the provisions of paragraph VI of this section are complied with, but may be disposed of as provided in paragraph IV of this section.

(b) A landlord may mingle all security deposits held by him in a single account held in trust for the tenant at any bank, savings and loan association or credit union organized under the laws of this state in satisfaction of the requirements of subparagraph III,(a) of this section. Any interest accruing thereon beyond that due to the tenant(s) shall be the property of the landlord.

(c) A bond written by a company located in New Hampshire posted with the clerk of the city or town in which the

residential premises are located, in an amount equivalent to the total value of a security deposit held by the landlord on property in that city or town, shall exempt the landlord from the provisions of subparagraphs III, (a) and (b) of this section.

IV. (a) Any landlord who holds a security deposit, upon conveying the premises in which the rental unit is located or assigning his lease thereto, or upon the judicial appointment and qualifying of a receiver in an action to foreclose a mortgage or other lien of record affecting the property in which the rental unit is located, or upon the conveyance of such property to another person by a referee in an action to foreclose the mortgage or other lien of record if a receiver shall not have been appointed and qualified in such action, at the time of delivery of the deed or instrument of assignment or within 5 days thereafter, or within 5 days after the receiver shall have been qualified, shall turn the security deposit over to his grantee or assignee, or to the receiver in the foreclosure action, or to the purchaser at the foreclosure sale if a receiver shall not have been qualified, and shall notify the tenant by registered or certified mail of such turning over and the name and address of the grantee, assignee, purchaser, or receiver who then holds the security deposit.

(b) Any landlord who turns over to his grantee, to his assignee, to the purchaser at a foreclosure sale, or to the receiver in the foreclosure action the amount of such security deposit with interest due, if any, is thereby relieved of liability to the tenant for repayment thereof. The transferee of such security deposit is hereby made responsible for the return thereof to the tenant or licensee, unless he shall thereafter and before the expiration of the term of the tenant's lease or licensee's agreement, transfer such security deposit to another, pursuant to subparagraph IV, (A) of this section and give the requisite notice in connection therewith. A receiver shall hold the security subject to such disposition thereof as shall be provided in an order of the court to be made and entered in the foreclosure action. This section shall not apply if the agreement between the landlord and tenant or licensee is inconsistent herewith.

V. A landlord who holds a security deposit for a period of one year or longer shall pay to the tenant interest thereon at a minimum rate of 4 percent per year commenc-



ing from the date of receipt of the deposit or from the effective date of this section, whichever is later.

VI. A landlord shall return a security deposit to a tenant, and pay the interest due, if any, within 30 days from the termination of the tenancy; provided that if there are any damages to the premises, excluding reasonable wear and tear, any unpaid rent, or if the tenant is required under the lease agreement to pay all or part of any increase in real estate taxes levied against the property and becoming due and payable during the term of the lease, the landlord shall provide the tenant with a written, itemized list of any such damages, claim for unpaid rent, or share of real estate taxes for which the landlord claims the tenant is liable accompanied with a money payment in an amount equal to the amount by which the security deposit, plus any unpaid interest due thereon, exceeds the landlord's claim for damages, unpaid rent, and/or share of real estate taxes. The itemized list shall indicate with particularity the nature of any repair necessary to correct any damage and the actual or estimated costs thereof, and the period for which there is a claim for unpaid rent or share of real estate taxes.

VII. (a) Any landlord who fails to comply with the provisions of paragraph III or IV of this section shall be deemed to have violated RSA 358-A:2.

(b) Any landlord who fails to comply with the provisions of paragraph V or VI of this section shall be liable to the tenant in damages in an amount equal to twice the sum of the amount of the security deposit plus any interest due hereunder, less any payments made and any charges owing for damages, unpaid rent, or share of real estate taxes as specified in paragraph VI of this section.

VIII. Notwithstanding the provisions of paragraphs II, III, IV, V, VI and VII of this section, a landlord shall not be liable, nor forfeit any rights of his failure to comply with this section is due to the failure of the tenant to notify the landlord of his or her new address upon termination of the tenancy. Any deposits plus interest due thereon that remain unclaimed after 6 months from the termination of the tenancy shall become the property of the landlord, free and clear of any claim of the tenant, absent fraud.

IX. Any provision in any lease or rental agreement by which the tenant is purported to waive any of his or her rights under this section, except as provided in subpara-

graph IV,(b) of this section, shall be void.

2 Mobile Home Security Deposits. Amend RSA 205-A:7 (supp) as inserted by 1973, 291:1, by striking out said section and inserting in place thereof the following:

205-A:7 Security Deposits. No owner or operator of a mobile home park shall require as a security or damage deposit an amount greater than one month's rent. Said deposit shall be held or disposed of by said owner or operator in compliance with the provisions of RSA 477:48.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. BRADLEY: The amendment is printed on page 14 through 17 of today's calendar and the amendment is the entire bill. This is a bill which is the committee's attempt with the help of it's staff to put together some of the best features of a bill that Senator Downing sponsored, a bill that came to us from the house that was ostensibly amended and some ideas that have been around for a while, it is a product of compromise and we think we have finally come up with something that ought to be acceptable to the majority of the senate. Basically all the bill does is to regulate in a few ways the so-called security deposits that a tenant has to give his landlord in a typical lease situation. One the amendments that we put in are put of this amendment is that this law applies only to the large landlords, landlords renting 25 or more units. It provides that the security deposit must be kept separate so that it doesn't become part of the assets of the landlord. There has been a problem of substantial abuse in this area where landlords will take hundreds of thousands of dollars in security deposits, go through bankruptcy and all the security deposits get washed out and the tenants never get their money back. So this provision is in there to take care of that situation. There is also provided a procedure under which the landlord can set off any damages which are caused by the tenant before he gives back the remainder of the security deposit. That is about the sum of it, I hope you'll pass it.

Sen. POULSEN: Senator Bradley, small b under roman three, it says the landlord may mingle all security deposits held by him in a single account held in trust for the tenant at any bank. It makes me wonder if he can mingle them in any

account held for the tenant that would to me indicate that each tenant had his own account at the bank.

Sen. BRADLEY: Maybe the word tenant should be plural. The idea is that unless you have the stuff in a segregated account, it is almost inevitably going to get flushed out in bankruptcy and the tenants are going to lose so you have to have it in some kind of segregated account. Now the landlords came in and objected to having separate accounts for every tenant and rightfully so in my opinion. They also objected into going into a more formal escrow arrangement. So what we are simply trying to provide here is that the landlord would like to have the same kind of account that say a realtor has when he gets deposits on land. He puts it in his trust account in trust for his tenants and this particular section is to give the landlord permission to have one account for all his tenants.

Sen. POULSEN: It says any interest thereon accruing beyond that due to the tenants shall be the property of the landlord. How can there be any interest due the tenant beyond what is due the tenant? What is the meaning of that sentence?

Sen. BRADLEY: The deposit itself remains the property of the tenant in the law. The landlord has to pay 4% interest for any deposit held for more than 1 year. If he puts it in an account where he can get a NOW account and can get 5% and he is going to get some things that he doesn't hold a year, the landlord is going to have something left over and that's his.

Sen. POULSEN: This doesn't specify that it has to go into an escrow account. It can be in any kind of an account that he wants to put it in?

Sen. BRADLEY: Yes, it is any kind of an account but the account has to be a in trust for, b, c, d, f g, that kind of a thing.

Sen. POULSEN: Does he have to keep adding names to. .

Sen. BRADLEY: No it would be just like I say, just like the realtors have their deposit account which he has to keep separate and segregated, it can't mingle with his own funds. He could have more than one if he wanted but he only has to have one in the landlord's name in trust for my tenants or in trust for the tenants of 50 Washington Street.

Sen. POULSEN: And that is legal under this?

Sen. BRADLEY: This would be the parts that would be legal.

Sen. ROCK: Senator Bradley, page 14, roman numeral 2. I am not familiar with of the complexes in Hanover but I don't know if you have seen, driving north on the turnpike the Royal Crest Apartment complex in Nashua, just by Sanders Associates.

Sen. BRADLEY: I have probably seen them.

Sen. ROCK: Subject to check, would you agree with me that the monthly rent in those apartments might be anywhere from \$300 to \$400 a month?

Sen. BRADLEY: Yes.

Sen. ROCK: What real value is there in a security deposit of \$100 which would be all that the landlord could require which would be approximately 25% of one month's or one week's rent if some tenant in the Royal Crest decided to move out with the chandelier and break one of those plate glass windows that are sliding out onto the patios before he left?

Sen. BRADLEY: Senator I think you're misreading it. The landlord is entitled to this to require a security deposit of one month's rent or \$100 whichever is greater so in the case of Royal Crest Estate, he could get the \$400. The \$100 is put in there because particularly in some of the subsidized housing, or housing for the elderly, the rentals are only \$30 or \$40 and so in those kind of cases it was felt that you ought to be able to get at least \$100 to protect against chipped paint or that sort of thing.

Amendment adopted. Ordered to third reading.

Sen. Healy recorded in opposition.

HB 853, relative to franchise disclosure law. Ought to pass with amendment. Sen. Bradley for the committee.

#### Amendment to HB 853

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT  
relative to the distributorship disclosure act.



Amend the bill by striking out section 1 and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 358-C the following new chapter:

## CHAPTER 358-D

### Distributorship Disclosure Act

358-D:1 Definitions. As used in this chapter:

I. "Division" means the consumer protection division of attorney general's office.

II. "Distributorship" means a contract or agreement, either express or implied, whether oral or written, by which the grantor, in exchange for the payment of a distributorship fee:

(a) Grants the distributor the right to:

(1) Offer, sell or distribute goods manufactured or supplied by the grantor through vending machines, racks, display cases, or other similar devices; or

(2) Purchase from the grantor or an affiliate of the grantor an inventory of products for sale or distribution in or on such vending machines, racks, display cases, or other similar devices; or

(3) Purchase or lease from the grantor or an affiliate of the grantor vending machines, racks, display cases, or other similar devices to be used for the sale or distribution of merchandise; and

(b) Represents that it will provide locations or assist the distributor in finding locations for the use or operation of such vending machines, racks, display cases, or other similar devices on property owned, leased or controlled by a third party.

III. "Person" means any person defined by RSA 358-A:1, I.

IV. "Grantor" is a person who grants a distributorship or any agent or representative thereof.

V. "Distributor" means a person to whom a distributorship is granted.

VI. "Prospective distributor" means any person who approaches, or is approached by, a grantor for the purpose of investigating the prospect of establishing a distributorship between such person and such grantor.

VII. "Distributorship fee" means a fee or charge that a

distributor is required to pay or agrees to pay for the right to enter into a business under a distributorship agreement, including but not limited to payments for goods and services. Distributorship fee shall not include payments for the purchase of sales demonstration equipment and materials furnished on a non-profit basis for use in making sales and not for resale.

358-D:2 Prohibitions on the Advertising or Sale of Distributorships. No person may advertise, offer, contract, sell or promote any distributorship in this state unless the person has registered with the division, as provided in RSA 358-D:3.

358-D:3 Registration.

I. Unless exempted by paragraph V, any person who advertises, offers, contracts, sells or promotes any distributorship in the state must register with the division and file, in a form prescribed by the division, an application which shall contain the following documents and information:

(a) An irrevocable appointment of the division to receive service of any lawful process in any noncriminal proceeding arising under this chapter against the grantor or his personal representatives;

(b) The official name and address and principal place of business of the grantor and the parent firm or holding company of the grantor, if any;

(c) The business experience stated individually of each of the grantor's directors and officers including the biographical data concerning all such persons;

(d) The business experience of the grantor, including the length of time the grantor has conducted a business of the type to be operated by the distributor, has granted distributorships for such business, and has granted distributorships in other lines of business;

(e) Where such is the case, a statement that the grantor or any of its current directors or officers;

(1) Has been held liable in a civil action by final judgment, convicted of a felony or plead nolo contendere to a felony charge if such felony or civil action involved fraud, embezzlement, fraudulent conversion or misappropriation of property for the most recent 7 year period;

(2) Is subject to any currently effective state or federal agency injunctive or restrictive order relating to or affecting

distributorship activities or the grantor/distributor relationship;

(3) Has filed in bankruptcy or has been associated as a director or officer of any company that has filed bankruptcy or reorganization proceedings for the most recent 7 year period;

(4) Has been a party to any cause of action brought by distributors against the grantor for the most recent 7 year period which resulted either in an out-of-court settlement or a judgment against the grantor; and

(5) Is presently a party to any cause of action brought by a distributor against the grantor; such statement shall set forth the identity and location of the court, date of conviction or judgment, and penalty imposed or damages assessed, and the date, nature, and issuer of each such order or ruling;

(f) A copy of any contracts, agreements, brochures or other documents relating to the distributorship;

(g) A factual description of the distributorship offered to be sold and of the services, training and assistance which will be provided by the grantor to the distributor;

(h) A statement describing the total funds which must be paid by the distributor to the grantor in order to obtain or commence the distributorship operation, such as deposits, down payments and fees; and, if all or part of these fees or deposits are returnable under certain conditions, these conditions should be set forth; and, if not returnable, such fact shall be disclosed;

(i) A statement describing the recurring fees required to be paid, in connection with carrying on the distributorship business, by the distributor to the grantor;

(j) If the grantor proposes to use estimated or projected distributorship sales or earnings, a statement of such estimates or projections together with an explanation of the bases and assumptions underlying such estimates or projections and any supportive data;

(k) A statement disclosing;

(1) The number of distributorships operating at the end of the last calendar year; and

(2) The names and addresses of all distributorships located in this state;

(l) A statement describing any services, supplies, products, signs, fixtures, or equipment relating to the establish-

ment or the operating of the distributorship which the distributor is required to purchase, lease or rent directly or indirectly from the grantor;

(m) A statement of whether the grantor will receive any income or other consideration from suppliers of goods or services required or suggested to be purchased by the distributor;

(n) A statement of the terms and conditions of any financing arrangement offered directly or indirectly by the grantor; and a statement of whether the grantor will receive any payments from any person for the placement of financing with such person;

(o) A statement whether, by the terms of the distributorship agreement or other device or practice, the distributor is limited in the goods or services he may offer for sale, or limited in the customers to whom he may sell such goods or services or is promised an exclusive or protected territory in which he may sell such goods or services;

(p) A statement disclosing the conditions and terms under which the grantor allows the distributor to sell, lease, assign, or otherwise transfer his distributorship, or any interest therein and the amount of consideration which must be paid to the grantor for such sale, lease, assignment or transfer, if any;

(q) A statement disclosing:

(1) The conditions under which the distributorship agreement may be terminated by the grantor, renewal may be refused, or the distributorship may be repurchased by the grantor at its option;

(2) The number, stated for each category, of distributorships which were terminated, renewal refused or repurchased during the preceding calendar year and a complete explanation thereof; and

(3) The conditions under which the distributorship agreement may be terminated by the distributor and the number of distributorships voluntarily terminated by distributors during the preceding calendar year;

(r) The disclosure statement required by RSA 358-D:4, if in different form than the application; and

(s) Any other information the division in its discretion reasonably requires.

II. The grantor shall file with the division a financial statement of the grantor audited by an independent certified



public accountant, as of the close of the most recent fiscal year of the grantor. If any material changes in the financial condition of the grantor occur after such statement is prepared, the grantor must disclose such changes and explain their significance to the operation of a distributorship. The division may, in its discretion, waive the requirement for audited statements for grantors, who have not previously had such certified audits, provided the unaudited financial statement is prepared by an independent certified public accountant. If the grantor is controlled by any person who absolutely and unconditionally guarantees to assume the duties and obligations of the grantor under the distributorship agreement should the grantor become unable to perform, the division may, in its discretion, accept a consolidated financial statement from the grantor and such person. If the division finds that a grantor has failed to demonstrate that adequate financial arrangements have been made to fulfill the obligations set forth in the distributorship agreement, the division may require the escrow or impoundment of fees and other funds paid by the distributor or distributors until such obligations have been fulfilled, or, at the option of the grantor, the furnishing of a surety bond as provided by rule or order of the division, if it finds that such requirement is necessary and appropriate to protect distributors.

III. Upon satisfactory submission of the information and documents required by paragraphs I and II and the payment of a registration fee of \$50, the division shall issue a certificate stating that the distributorship has been registered.

IV. The division may accept any registration filed with agencies of the United States or any other state, in lieu of the filing required by this chapter, if it determines the acceptance of such registration will adequately protect the public.

V. The division may from time to time by rule or order exempt from the provisions of this chapter any distributorship if it finds that the enforcement of all the provisions of this chapter with respect to such distributorship is not necessary in the public interest and for the protection of distributors due to the limited character of the distributorship, or the small amount of money involved or because such distributorship is, in the judgment of the division, otherwise adequately regulated by federal or state law or because such distributorship has been registered and ap-

proved pursuant to the laws of the United States or any other state.

VI. The grantor shall immediately notify the division of any material change in information contained in the application for registration and shall make appropriate amendment of the disclosure statement.

VII. The division may prescribe reasonable rules and regulations for carrying out the provisions of this chapter.

358-D:4 Disclosure Statement. A grantor shall provide to each prospective distributor a disclosure statement which contains the documents and information required to be filed with the division at least 7 days prior to entering into any distributorship contract or agreement with such prospective distributor, or at least 7 days prior to the receipt by the grantor of any consideration from the prospective distributor, whichever occurs first.

Any distributorship contract or agreement shall state in immediate proximity to the space reserved for the distributor's signature, in bold face type of a minimum size of 10 points, a statement in substantially the following form:

**“THE NEW HAMPSHIRE DISTRIBUTORSHIP DISCLOSURE ACT MAKES IT UNLAWFUL TO SELL ANY DISTRIBUTORSHIP IN THIS STATE WHICH IS SUBJECT TO THAT ACT WITHOUT FIRST PROVIDING TO THE PROSPECTIVE DISTRIBUTOR AT LEAST 7 DAYS PRIOR TO THE EXECUTION BY SUCH DISTRIBUTOR OF ANY BINDING DISTRIBUTORSHIP AGREEMENT, OR AT LEAST 7 DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION, WHICHEVER OCCURS FIRST, A COPY OF THIS DISCLOSURE STATEMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE DISTRIBUTORSHIP. IF THESE DOCUMENTS HAVE NOT BEEN PRESENTED TO YOU IN ACCORDANCE WITH THESE REQUIREMENTS, YOU MAY VOID THE AGREEMENT WITHIN 90 DAYS BY SENDING NOTICE OF YOUR INTENTION TO THE GRANTOR BY UNITED STATES MAIL, RETURN RECEIPT REQUESTED. UPON RECEIPT OF THE NOTICE, THE GRANTOR MUST REFUND ALL MONIES YOU HAVE PAID FOR THE DISTRIBUTORSHIP PLUS INTEREST. THE DISCLOSURE STATE-**

MENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE DISTRIBUTORSHIP AGREEMENT. THE AGREEMENT SHOULD BE CAREFULLY READ FOR AN UNDERSTANDING OF ALL RIGHTS AND OBLIGATIONS OF BOTH GRANTOR AND DISTRIBUTOR.”

358-D:5 Acts Unlawful. It shall be unlawful for any person, in connection with the advertising, offering, contracting, sale or promoting of any distributorship in this state:

I. To fail to comply with any provision of this chapter;

II. To employ any device, scheme or artifice to defraud a distributor;

III. To make any untrue statement of a material fact, or to omit to state a material fact in connection with the documents and information required to be furnished to the division or prospective distributor; and

IV. To make any claim or representation in advertising or promotional material, or in any oral sales presentation, solicitation, or discussion between the grantor and a prospective distributor, which is inconsistent with the information required to be disclosed by this chapter.

358-D:6 Remedies.

I. Any violation of the provisions of this chapter is an unfair or deceptive act or practice within the meaning of RSA 358-A:2. Any right or remedy set forth in RSA 358-A may be used to enforce the provisions of this chapter.

II. Any distributor may bring an action under RSA 358-A for violation of this chapter to recover damages sustained by reason of such violation against the grantor or any other person who has materially participated or aided in making such sale. Said distributor may proceed against any escrowed or impounded funds or surety bond to recover damages.

III. (a) If the grantor has failed to register the distributorship or has failed to provide to a distributor a disclosure statement as required by this chapter, the distributor may elect to void the distributorship agreement. Notice of any such election shall be given by the distributor within 90 days after the distributor has knowledge of the failure of the grantor to comply with the requirements of this chapter to each person from whom recovery will be sought, by United

States mail, return receipt requested, or by personal service.

(b) Upon receipt of such notice, the grantor or any other person who has materially participated or aided in making such sale may offer to return any consideration paid or to repurchase the distributorship for a price equal to the full amount paid, together with 6 percent interest on said amount from the date of payment, less any income received from the distributorship. Every offer shall be in writing, shall be delivered to the distributor or sent by United States mail, return receipt requested, addressed to the distributor, shall offer to return any consideration paid or to repurchase the distributorship for a price equal to the full amount paid together with 6 percent interest on said amount from the date of payment, less any income received by the distributor and may require the distributor to return to the person making such offer all unsold goods, equipment, fixtures, leases and similar items received. Such offer shall continue in force for 15 days from the date on which it was received by the distributor, shall advise the distributor of such rights and the period of time limited for acceptance thereof, and shall contain such further information, if any, as the division may prescribe. If the offer is accepted, the grantor must pay all sums due within 10 days of its receipt of the acceptance.

(c) A distributor shall waive any right to proceed against the grantor for its failure to register or provide a disclosure statement if said distributor fails to accept an offer tendered pursuant to the provisions of paragraph III(a) and (b)

Sen. BRADLEY: The amendment is printed in the calendar today beginning on page 17 to page 25. The amendment is the entire bill. This is a bill that has been asked for by the attorney general to regulate, originally the thing was called a franchise disclosure law and they have rewritten that to call it a distributorship disclosure law and it is to deal with the abuse which the attorney general's office has found to be one of the most prevalent that has come to their attention under their consumer protection division. What happens is that someone will advertise a dealership or a distributorship and con someone into believing that they can make a lot of money, they'll get the person to invest in some expensive display cases or racks, vending machines and that sort of



thing. And then tell them that they are going to have a certain area, a certain number of stores as theirs to distribute some nationally known product and then the person lays out maybe as much as \$3000 or \$4000 for this sort of thing and then never hears from the distributor again and there have been a fair number of these problems as I indicated. This bill sets up a requirement that any one who comes into the business, that offers these kinds of distributorships, and it is limited solely to the kind of distributorships where the grantor, that is the person who is going to give you this right uses vending machine racks, display cases or similar devices, it applies to only those kinds of distributorships. And if you have one of those distributorships then you have to comply with this law which requires registration, bonding and a variety of other procedures to insure that you deal with the people of this state fairly. There was opposition to the original bill by several national distributing agencies however they all came to the hearing, rather 3 or 4 of them came to the hearing from around the country and agreed that this was a good kind of protection for the consumer as carved down in the amendment.

Amendment adopted. Ordered to third reading.

Sen. Monier moved reconsideration of HB 57.

Sen. MONIER: Mr. President I have an amendment that I have talked with Senator Bossie about and I was detained by all the lobbyists outside, you can't get in the room. I would like ask for reconsideration of HB 57 and lay it on the table.

Adopted.

HB 57, relative to security deposits of tenants of residential premises.

Sen. Monier moved to lay HB 57 on the table.

Adopted.

HB 573, providing for the acquisition of a certain dam and water rights by the water resources board and making an appropriation therefore. Ought to pass. Sen. Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the Senate, the Department of Economic Resources and Development has about twenty dams which ultimately would like to turn over to the water resources board. In the original house bill it was proposed that three of these be so disposed of. However the amendment to HB 573 which is on 2506 of the house record provides that only one of those dams namely the Ballard dam which is at Ballard state park be turned over to the Water Resources Board and an appropriation set up to take care of the repairs which are necessary to bring it back into shape. Some of you may be aware that there is a rather unique situation at the Taylor Mill at the Ballard state park in the town of Derry. It is the only up and down sawmill in the state of New Hampshire and indeed in this part of the country. 3 or 4 times a year it is opened up by the Department of Resources and Economic Development to visitors and it is well worth seeing it. At the present time however the dam is in tough shape and it was the decision of the house that if only one could be done then it should be the Ballard dam at Ballard state park in Derry. The committee recommends that you support this.

Referred to Finance under Rule No. 24.

HB 1038, relative to providing criminal penalties for the copying of recorded devices. Ought to pass. Sen. Bradley for the committee.

Sen. BRADLEY: This bill is to provide for protection against record piracy which has apparently become a problem in our state. We presently have a law which provides for civil remedies if somebody copies a record, makes a recording without the permission of the owner. But the remedy is apparently inadequate and this bill proposes to add a criminal penalty to treat this piracy just like any other theft. Apparently it is not covered under our general statutes now. It is a crime in 46 other states already and the 47th state, Missouri, is considering such legislation at the present time. The bill does basically two things. It prohibits the sale on the transfer advertising and so forth, of any record, tape, that sort of thing, without the permission of the owner and the second thing it does is require these tapes and records to contain the name of the manufacturer or producer and the name of the

actual performer on the article being sold. One of the kind of things that was shown to the committee where there is an abuse is one of these tape cartridges which has a picture on it, songs from South Pacific with a picture of a look-alike of Mary Martin in a sailor suit. So what you think you are buying is perhaps the sound track of the original Rogers and Hammerstein play when in fact you are getting something from people you have never heard of and people whose names are not on the record at all and with no address, no names of performers or anything else on the article. You can buy these down on the main street of Concord. So this bill would require fair disclosure as to what is on the tape and would prevent the actual recording of bona fide performers without the permission of the owner.

Adopted. Ordered to third reading.

HB 1020, an act to the development of aquaculture and permitting a special license for mariculture. Inexpedient to legislate. Sen. Preston for the committee.

Sen. PRESTON: HB 1020 was a bill that created the greatest controversy of any that we have had in the session. There were about 90 people there, all but 4 appearing in opposition to the bill. It has to do with the development of aquaculture and permitting special licenses for the leasing of some of the coastal waters, public lands such as the Great Bay, White Harbors and Hampton Harbors and would have permitted the leasing for terms of five years for 50 acres. I think that the bill brought out a lot of emotion on this bill and I think it was genuinely misunderstood. It is kind of an exciting idea—aquaculture, marine organisms and shell fish etc. under water, fish farms and so forth but in fairness to the sponsors of this bill the committee of marine fisheries, fish and game, are going to hold hearings on this and it was opposed by all sporting club people, the duck hunters, the commercial fishermen appeared and even Senator Fennelly appeared in opposition to the bill. So it was recommended inexpedient to legislate but for the record there will be hearings held in the seacoast on this.

Sen. HEALY: Mr. President I would like to rise in strong support of the bill, the report of inexpedient on this bill. We had quite a hearing on this and this would be quite an in-

fringement of this and this would be an infringement of public rights if we should ever let something like this go through.

Adopted.

HOUSE MESSAGE  
HOUSE REQUESTS CONCURRENCE IN AMEND-  
MENTS

**SB 258**, permitting veterans of the Viet Nam conflict the use of armories for meetings and requiring not less than 90 consecutive days of service to qualify for tax exemption.

Sen. Brown moved that the Senate nonconcur in the amendment and set up a committee of conference.

Adopted.

The Chair appointed Sens. Brown, Rock, Healy.

**SB 244**, concerning vocational-technical colleges.

See House record pg. 2659.

Sen. Smith moved to concur in the amendment.

Adopted.

**SB 101**, relative to allowable uses of written reports filed after an accident.

Sen. Lamontagne moved to nonconcur in the amendment and to set up a committee of conference.

Adopted.

The Chair appointed Sens. Monier, Rock and Lamontagne.

**SB 280**, relative to motor vehicle inspections.

Sen. Gardner moved to nonconcur in the amendment and to set up a committee of conference.

Adopted.

The Chair appointed Sens. Poulsen, Gardner and Lamontagne.

**SB 40**, repealing certain provisions currently included on tangible property inventory blanks.



Sen. Downing moved to nonconcur in the amendment and to set up a committee of conference.

Adopted.

The Chair appointed Sens. Keeney, Bradley and Downing.

**SB 16**, relative to the extent of medical treatment which a licensed podiatrist may perform.

Sen. McLaughlin moved to concur in the amendment.

See House record pg. 2802.

Adopted.

**SB 279**, relative to group health insurance coverage for certain retired state employees.

Sen. Bergeron moved to concur in the amendment.

See House record pg. 2659.

Adopted.

**SB 307**, relative to deceased funeral directors.

Sen. McLaughlin moved to concur in the amendment.

See House record pg. 2658.

Adopted.

**SB 197**, permitting a city or town to charge fees for commercial waste.

Sen. Monier moved to concur in the amendment.

See House record pg. 2771

Adopted.

**SB 31**, relative to the form and use of walking disability identification on motor vehicles.

Sen. Gardner moved to concur in the amendment.

See House record pg. 2664.

Adopted.

**SB 142**, amending the definition of moped in the motor vehicle laws.

Sen. Gardner moved to concur in the amendment.  
See House record pg. 2664.  
Adopted.

**SB 64**, relative to homestead rights for mobile home owners.

Sen. Downing moved to concur in the amendment.  
See House record pg. 2662.  
Adopted.

**SB 229**, revising the laws of corporations.

Sen. Bradley moved to concur in the amendment.  
See House record pg. 2668.  
Adopted.

**SB 7**, establishing retirement and permanent disability benefits for district court justices.

Sen. Bradley moved to nonconcur in the amendment and to set up a committee of conference.

Adopted.

The Chair appointed Sens. Bradley, Jacobson, and Bossie.  
Sen. Sanborn in the Chair.

### **Special Orders 2:15 p.m.**

**HB 1083**, relative to time-of-day electric utility rates.

Question of the committee amendment.

### **Floor Amendment to HB 1083**

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Electric Utilities. Optional Time-of-Use Rates. Amend RSA 378 by inserting after section 7 the following new subdivision;

#### **Electric Utility Rates**

378:7-a Filing of Time-of-Use Rates. In order to conserve electricity and discourage excessive consumption of electricity, every public utility selling electricity to electric custom-

ers shall file with the commission and make available a time-of-use rate or rates based on costs to the utility to be determined according to the provisions of RSA 378:7-b and that can be designed for such customers using existing meters. In addition, every public utility selling electricity to electric customers shall file with the commission and make available a time-of-day rate or rates based on costs to the utility to be determined according to the provisions of RSA 378:7-b and designed for application to such customers at customer's option. Nothing herein shall be deemed to preclude the filing of other time-of-use or time-of-day rates by such public utility.

**378:7-b Time-of-Use and Time-of-Day Rates Defined.** Time-of-use rates prescribed by RSA 378:7-a shall reflect the costs at different times of the year. Optional time-of-day rates prescribed by RSA 378:7-a shall reflect costs at different hours of the day and different days of the week. All such time-of-use and time-of-day rates shall be approved by the commission prior to being implemented.

**378:7-c Electric Customer Defined.** The term electric customer means any customer to which electric energy is sold for purposes other than for resale.

**2 Effective Date.** This act shall take effect July 1, 1978.

Sen. BOSSIE: Mr. President, this bill is one which would allow optional time-of-rate uses in determining charges for electrical customers. The way the bill had passed the house it was mandatory so that the electrical companies had to do it. Well as we know the Public Service Company of New Hampshire and several of the smaller electrical companies have started a test whereby a 100 customers by each company were to be given meters and they would determine which bill they would pay, they could either pay their regular bill or the time of use rate and that would be fine with us. What this bill does, in the amendment as filed by the committee, is to provide that it shall be optional and that if the customer doesn't want it then the customer need not take it and it appears to be a very reasonable amendment and I kind of thought that most of the factions involved in this kind of agreed to this. I understand there may be a little difference to that but we feel that the amendment as proposed by the committee would be appropriate and I think Senator Fennelly may want to say a few words on this but we heard a lot

of testimony about it and I think everybody is doing well to compromise on the bill. So we would urge our colleagues to adopt the amendment.

Sen. ROCK: Mr. President, members of the Senate, we have to move into the 21st century pretty soon and we have to realize that the power that we have is a finite thing and that we have to stop running all of the appliances at certain times of the day because that is where the peak load comes in, that's when the shaving plants go into operation and that's when the cost of your power goes up. I support HB 1038 and the time of day electric utility rates will be more and more a thing of the future as we learn to conserve and as we learn to use what available power that there is at the best times for maximum usage. So I support the bill.

Amendment adopted. Ordered to third reading.

HB 159, relative to equine infectious anemia.

Sen. MCLAUGHLIN: Mr. President, members of the Senate, this is a very simple bill. This bill deals with horses I am sure none of you have got too much involved or have heard much about it but at this time I would like to turn around and withdraw the amendment proposed by the senate and recommend the passage of the bill that came over from the house.

Sen. BRADLEY: Could you explain to us briefly what the bill that came from the house does.

Sen. McLAUGHLIN: The bill as it comes from the house, says that a horse maybe tested to be positive and the state will pay for a second test, that it will not be quarantined as such. The present law says now that it has to be inside of a fence and cannot be used certain months of the year and so forth. This eliminates that in the way that it came over from the house.

Sen. BRADLEY: The other day you explained the amendment to the bill which I believe you said you thought it incorporated most of the good features of the proposal and I wondered, why are we backtracking from that as explained the other day and what is the difference between the two positions.

Sen. McLAUGHLIN: When we in committee went to digest this bill and put it together—it was a bill that originally



came from the House and it was repealing all the previous sections of the laws that were on hand. However in the house there was an amendment put onto the bill which we never got a copy until an hour or so ago. It was doing almost what the Senate amendment was going to do today. We found that the wording on the original amendment was a lot more reasonable and a lot more agreeable to a lot more people.

Sen. BLAISDELL: Senator what was the vote in the House?

Sen. McLAUGHLIN: 314 to 40, or something like that.

Sen. HANCOCK: Mr. President, members of the senate, it is my understanding that with the taking off of the senate amendments which Senator McLaughlin just proposed, that the bill is then satisfactory to most of the horse owners.

Sen. BRADLEY: Just so I understand this. I don't own any horses and I don't think I ever will but if I have a horse who gets tested and has this stuff, under the law as you are proposing it, what is going to happen?

Sen. McLAUGHLIN: The horse is not going to be put down as it previously was.

Sen. BRADLEY: Okay he is not going to be killed but what if any restrictions are provided?

Sen. McLAUGHLIN: If the horse is proven positive the state will give a second test and if that proves to be positive they will be marked with a lip tattoo designed by the commissioner.

Sen. BRADLEY: That's all. No special quarantines, no cages, no whatever?

Sen. McLAUGHLIN: There is now Senator but there won't be if this bill is passed.

Sen. BRADLEY: If this bill is passed there will be just the marking on the lip?

Sen. McLAUGHLIN: Yes.

Sen. BRADLEY: Could you tell us the position of the Department of Agriculture on this proposal?

Sen. McLAUGHLIN: Mixed reactions.

Sen. BOSSIE: Mr. President I rise very briefly in support of the committee proposal that the bill ought to pass without any amendment and I think the committee should be commended for their reviewing the bill. I know in the House the bill had been worked on extensively and I think all horse owners are very appreciative of that and I do own two horses

and I think it is a shame when my horses who cost thousands of dollars could be put down and somebody's plug in the field who is bought for \$50 would not if they both had the same disease. The problem is we have to find a cure for this problem and the way the law had been or is now would not help it. I think the committee is doing a good job.

Sen. SAGGIOTES: It is my understanding that the chairman of the committee has withdrawn the amendment of the committee and the question I have of the chair is what the parliamentary procedure should be if this is the desire of the committee?

The CHAIR: The bill was reported with amendment and the Senate now has to either accept or reject the amendment.

Sen. SAGGIOTES: I think most everyone understands what the procedure is but just to make it perfectly clear, it is the position of the committee to vote down the amendment that has been offered and the reason that it was offered, it was due to an oversight on the part of the committee when we had the copy of the bill, we had the wrong copy, we did not have the amended bill as it came over from the house and this is why the amendment was offered. It was discovered very recently that the amendment that we were offering although a little different from the house version was already in the bill. So what we are asking the members to do now is to vote down the amendment, to pass the bill as was passed by the house by a vote of 316 to 48.

Question of the committee amendment.

Amendment failed.

Ordered to third reading. (Sen. Gardner recorded in favor of the bill.)

## COMMITTEE REPORTS

HB 652, relative to the sealing and certifying of ballots. Ought to pass with amendments. Sen. Jacobson for the committee.

### Amendment to HB 652

Amend RSA 59:88, IV as inserted by section 1 of the bill by striking out said paragraph.

Sen. JACOBSON: The amendments for the four election bills are found on page 10 and 11 on your calendar today. The amendment to HB 654 strikes out section roman numeral 4 of the bill as it came from the House and that section made it, if a moderator failed to carry out the provisions regarding the sealing of ballot boxes it would be prima facie evidence that he was in fact guilty and subject to the penalties of the law. The committee felt that was too severe, there is already a section in the statute that if they knowingly do it then of course they are subject to prosecution but it felt that to do it on prima facie evidence would be going to far and that is all the amendment does, is strike out that portion which makes any error prima facie evidence that in fact they did it with intent. What this bill does is make perfectly clear the process for sealing and certifying ballots. They must use either the containers provided by the secretary of state or a container that is similar to. It gives the authority to the secretary of state to provide those containers and also provides for the signing on that is required. That is what the bill does.

Sen. SMITH: I think the bill is an excellent one but I wonder is there any appropriation for the construction or purchase either in the secretary of state's office or anywhere?

Sen. JACOBSON: We asked that specific question Senator and they already provide these boxes so it would be no different than it presently is, so it would be included in the present budgetary consideration. If a town wanted to provide its own boxes and I see no reason why it should provide its own boxes then he would have to pay for it. There are a few instances if I may follow up in which they have very excellent boxes but there are other towns where they put them in shoe boxes with the ballots falling out as they come into the Secretary of state's office.

Sen. SMITH: The secretary of state did not supply the fish wrapped paper that some ballots were delivered in several years ago?

Sen. JACOBSON: No but it specifically says that they shall be sealed with a filament type of tape.

Sen. SMITH: Would it possible for Senators to borrow those boxes if they decide to leave?

Sen. JACOBSON: Yes there is a special provision that says if any Senator wants a box he may go to the Secretary of state and get a box on the way out.

Amendment adopted. Ordered to third reading.

HB 838, requiring the secretary of state to notify all persons of write-in nominations for the house of representatives. Ought to pass with amendment. Sen. Jacobson for the committee.

#### Amendment to HB 838

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

to assure the appearance of nominees on the ballot.

Amend the bill by striking out sections 1, 2 and 3 and inserting in place thereof the following:

1 Town Clerk's Failure to Notify; Candidate Still Entitled to be on Ballot. Amend RSA 56:52 as amended by striking out said section and inserting in place thereof the following:

56:52—Notice to Other Candidates. Upon receipt of the copy of the publication provided for in RSA 56:50 each town or city clerk shall forthwith notify in writing any person in the respective town or city who received a nomination for any town or ward office or the office of state representative where the district is composed of only one town or ward for which he did not file a declaration of candidacy or primary petition with said clerk. A person so notified shall advise the secretary of state, in writing, if he wishes to accept such nomination. If such acceptance of nomination is not received by the secretary of state within 6 days from the date of the publication of the notice as provided in RSA 56:50, the person shall be deemed to have refused such nomination and his name shall not appear on the official ballot as a candidate for said office. Notwithstanding any other provision of law, if the town clerk fails to notify a person who has received the proper number of write-ins to be nominated, the secretary of state shall place such person's name on the official ballot unless such person objects.

2 Effective Date. This act shall take effect 60 days after its passage.



Sen. JACOBSON: This bill was entered by Representative Guy Fourtier from Berlin and he ran into a problem where he received the republican nomination and in the course of the process the clerk of the city failed to notify him so that he was unaware of the nomination and was unable to thereby accept the nomination. He appealed to the secretary of state on the question, and the secretary of state told him he could do nothing because the statutes gave him no authority to proceed. In spite of the fact that the clerk had failed to notify him and he also went to the court and the court said they could do nothing and that the only thing that would be possible would be to change the law so Representative Fortier introduced HB 838 which in its original form would have required the Secretary of state to notify every write-in nomination for the House of Representatives in a single district and the secretary of state and the deputy secretary of state appeared and said that would create a tremendous amount of additional work at a time when they are hard pressed at any rate and they suggested that the bill be amended so that in the case similar to Representative Fortier's then there would be the opportunity to appeal so that they could accept the nomination and the committee accepted the recommendation of the secretary of state and his deputy and the amendment then allows for an appeal if the town or city clerk failed to notify a person of his nomination on the basis of a write-in and that is the amendment and that is the bill.

Amendment adopted. Ordered to third reading.

HB 757, relative to the designation of office on ballots. Ought to pass with amendment. Sen. Jacobson for the committee.

#### Amendment to HB 757

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Designation of Office. Amend RSA 59:6 as amended by striking out said section and inserting in place thereof the following:

59:6 Designation of Office. Immediately to the left of each set of party columns shall be printed a column in which shall

be printed the political designation of the office for which the candidates whose names are listed in the party columns to the right have been nominated, as "For Governor" and the like, and below such political designation of each office shall be printed in small but easily legible letters "Vote for no more than (here insert a spelled number designating how many persons are to be voted for)".

Amend the bill by striking out section 2 and renumbering section 3 to read as 2.

Sen. JACOBSON: This bill as it came over from the house did three things. It changed on the ballot, it changed it from vote for to vote for no more than four. Secondly it wanted to lengthen the distances between candidates by approximately  $\frac{1}{8}$  of an inch and thirdly it amended section 5918 which has to do with the authority of the secretary of state to provide instructions for voters. The present statute says that the officer who prepares the ballot and the bill says the secretary of state or the officer who prepares the ballot and the secretary of state's office again appeared on this bill and said that 5918 changes unnecessary because the officer is the secretary of state. It strongly opposed the elongation of the ballot because it would create tremendous printing problems and so that the committee amendment strikes those two sections out of the bill and proposes that we change from the positive statement vote for any four or any two or any three to vote for no more than four or no more than three, that is the way it was prior to 1909 and so we are going to go back and try the system of 65, 67 years ago again because the testimony was that this is confusing whereas if it is a constrictive statement it will be less confusing.

Sen. PRESTON: In talking to Mr. Kelly in the secretary of state's office I think you partially explained his objections. He said that in 1967 in that we had an effect in which you are proposing by this very bill.

Sen. JACOBSON: Well according to testimony it was in effect in 1909.

Sen. PRESTON: It was his feeling that why the change, he didn't view this as a very necessary piece of legislation, he felt he was doing some of the things already suggested and I don't voice those words in real opposition but it doesn't seem like a very important bill.

Sen. JACOBSON: He opposed the elongation of the ballot by stretching it out and that is taken out by the amendment and he felt it was unnecessary to change 5918 and that is taken out. The only part that remains is the business of changing it for a vote of any four to vote for no more and he didn't have an objection to that.

Sen. PRESTON: This may be looked upon as a solution to the elongation problem. I want to make it very clear Mr. President that I think you know that I sponsored a bill to do away with the circle at the top of the ballot for republican or democratic and this has nothing to do with the removal of the circle at the top of the ballot. What this would do is remove the two emblems, the eagle and the star which really if you ask people what the symbol for each party is the ordinary person they wouldn't even know and this would permit more room and because there a space problem on machines and on ballots on presidential primaries or whatever. It is not a partisan move at all and it would strike out the eagle and I must say it doesn't look like much of an eagle, more like a dead duck and the star at the top of the ballot and has no significance or political impact at all. The amendment would simply remove the emblems and allow for more space, not the words.

Sen. JACOBSON: This emblem that was placed on there is under the authority of the secretary of state to choose whatever emblem he may want as a distinguishing mark. I believe it was originally established in 1897 and was designed probably along the lines of the problems that other countries face because people cannot read and therefore for example, in India, the party symbol is placed on the ballot so that the people can distinguish clearly one ballot from the other and I am sure that this is a direct result of a large immigrant influx at that time which may of made it more difficult for people to distinguish words when they could in fact more clearly distinguish pictorialized symbols. I think the time is going to come interestingly enough when we actually may have bilingual ballots and it may actually be ordered under basic civil rights. I have no objection to it and in fact I am preparing an amendment which included the repeal of that section.

Sen. BRADLEY: I apologize Senator for not having both ears as you were talking, what is the basic change here in the law on this bill?

Sen. JACOBSON: This amendment would change the star

above the democrat party and the eagle above the republican party or any other such symbols on the ballot.

Sen. BRADLEY: You mean it would eliminate them.

Sen. JACOBSON: Yes. That is what this amendment will do.

Sen. BRADLEY: And just put the word republican?

Sen. JACOBSON: As it is now and it will also include the word democrat or democratic also.

Sen. BRADLEY: In other words just striking off the symbols.

Sen. JACOBSON: Yes.

Sen. BRADLEY: It sounded to me like something was getting printed beside the name on the bill.

Sen. JACOBSON: The original bill had three parts to it, two parts are limited and that is the only part left in the original bill which changes it and the present one says vote for any two and this says vote for no more than two because it was felt at the committee hearing that this will lead to less confusion and less spoiled ballots.

Amendment adopted.

Sen. Preston moved a further amendment.

#### Amendment to HB 757

Amend section 2 of the bill by striking out same and inserting in place thereof the following:

2 Repeal. RSA 59:11 relative to party emblem on official ballots, is hereby repealed.

3 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to third reading.

HB 1188, concerning membership of the ballot-law commission. Ought to pass with amendment. Sen. Jacobson for the committee.



## Amendment to HB 1188

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Members. Amend RSA 68:1 (supp) as amended by striking out said section and inserting in place thereof the following:

68:1 Organization. There shall be a ballot-law commission consisting of 3 members, one of whom shall be an attorney in good standing and licensed to practice in the state of New Hampshire. This member of the commission shall be appointed by the New Hampshire supreme court. The other 2 members shall be appointed by the governor with the advice and consent of the council, one from each of the 2 major political parties in the state based on votes cast for governor in the most recent biennial election. The terms of all commissioners shall be for 4 years, or until their successors are appointed and qualified, except that the first appointments shall be for terms of 2, 3 and 4 years, respectively. The supreme court nominee, who shall always be the chairman, shall be appointed in the first instance for a term of 2 years with the remaining 2 nominees appointed by the governor with the advice and consent of the council to be appointed initially for the terms of 3 and 4 years, respectively. Thereafter, one member shall be appointed at the expiration of each term to take office July first. Vacancies shall be filled in the same manner for the unexpired term. Not more than 2 commissioners appointed by the governor with the advice and consent of the council shall be of the same political party. The secretary of state shall be the recording officer and clerk of the commission, but shall have no vote in its decisions.

Sen. JACOBSON: The bill as it came from the House establishes a new form of ballot law commission. It included an attorney in good standing appointed by the supreme court who would be the chairman, and then the other two members would be appointed by the governor with the advice and consent of the council from two lists of five names given to the governor from the executive committee of the two major parties. There was strenuous objection to this and I am certain that the bill would not pass in this form and therefore the committee has amended it only in respect to the two mem-

bers appointed by the two political parties so it goes back to the present principle that the governor shall appoint one member from each party with the advice and consent of the council as is the present practice and that is the amendment.

Amendment adopted. Ordered to third reading.

## SUSPENSION OF RULES

Sen. Monier moved that the rules of the Senate be so far suspended as to allow the introduction of a committee report on HB 213 without proper notice in the journal.

Adopted.

## COMMITTEE REPORT

HB 213, relative to reconsidering an action taken at a town meeting, village district or school meeting. Ought to pass with amendment. Sen. Monier for the committee.

### Amendment to HB 213

Amend RSA 40:4-c as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

40:4-c Reconsideration. No vote of a town that involves directly or indirectly a cost to the town of over \$5,000 may be reconsidered unless there are equal or greater number of qualified voters present at the time of reconsideration as there were originally voting on the question.

Amend RSA 52:15-a as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

52:15-a Reconsideration. No vote of a village district meeting that involves directly or indirectly a cost to the village district of over \$5,000 may be reconsidered unless there are an equal or greater number of qualified voters present at the time of reconsideration as there were originally voting on the question.

Amend RSA 197:13-a as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

197:13-a Reconsideration. No vote of a school district meeting that involves directly or indirectly a cost to the school district of over \$5,000 may be reconsidered unless there are an equal or greater number of qualified voters present at the time of reconsideration as there were originally voting on the question.

Sen. MONIER: If you remember this bill was recommitted at the request of everyone and had an ought to pass on it and at the time we offered an amendment and Senator Trowbridge has the amendment and it is under reconsideration for vote and I would like to defer to Senator Trowbridge.

Sen. TROWBRIDGE: I would like to thank the committee for bringing this bill, we had it a couple of days ago, it is the reconsideration vote at town meeting at which point we passed the original amendment and it meant that if you were a moderator and say you had article 2 come up and in article 2 it said \$2,000 for recreation and then in the budget it was amended that \$2,500 and in the later article you could not go back and reconsider your way by which you passed article 2 to make it consistent with article 12 let us say, there was no flexibility there at all. I fully subscribe to the purposes of HB 213 as I have said to everyone about having a big bond issue or a big thing reconsidered when everybody has left. I have no problem with that but as a moderator and a lot of us were concerned, that there should be some flexibility that you have whereby you can legitimately reconsider an action that you took where you made a mistake in the first article and should go back. Hence in this amendment in this amendment it says that no vote of a town meeting which involves directly or indirectly a cost over to the town of over \$5,000 may be reconsidered unless there are the same number of voters at the thing. There is a level below which you are not going to throw everything off and it is not going to make a big impact to the town and that if it doesn't involve money at all obviously you can reconsider. If it is just a language change or something else to make things consistent. So this gives some flexibility to the towns to reconsider its action on small items that are not of big money matters. And I picked the \$5,000 out of the air, I will admit it, it is just a figure that I thought was below which the town could stand even if they did reconsider with fewer votes. So that then goes along and is the same thing for

the school district meeting and the village district meeting. The three parts are all consistent and I think you really ought to adopt this amendment because otherwise you would have to take a standing vote on every article in the warrant to make sure that you knew how many people were voting on that article in the warrant and the town meeting would go on forever. So I do think that this is an important amendment.

Sen. BOSSIE: Senator, in order to have good legislative intent on the record I would like to ask you, by this amendment that you propose, do you intend that any matter that is covered by a bond issue shall be determined by that statute and this would strictly be on a non-bond items?

Sen. TROWBRIDGE: No question, it is in the other part of the statute. This is amending 44-c and the other one would be in the other part of the statute.

Sen. BOSSIE: And when the towns are dealing with bond items, when there is reconsideration the majority of voters that vote to have reconsideration 7 days hence, that the moderator does not have to determine if you're as many voters than when the original vote was taken is that correct?

Sen. TROWBRIDGE: Right. That other procedure is not affected is my understanding.

Amendment adopted. Ordered to third reading.

### **Special Order 3:00 p.m.**

HB 269, relative to the suspension and revocation of a person's license or operating privilege. Refer to Interim Study by Judiciary Committee.

Sen. JACOBSON: The present motion is referred to interim study. I would like to propose an amendment to this bill but in order to do that of course the motion of interim study would have to be turned down. I would like to as you have received a copy of my amendment, what it does it leaves in section 1 of HB 269 which the committee on the Judiciary did not have any problems. The problems stem from section 2 of the bill which gave the Director of Motor Vehicles rather broad powers in the suspension. My amendment takes out that and leaves in section 1 which relates to operating after revocation or suspension of a vehicle which makes a person then guilty to the next level of a mis-



demeanor after he has been caught driving after his license has been suspended or revoked. The other portion of the amendment adds the driver information program which of course is ASAP. In the house there was HB 503 which was defeated because it did mandate referrals and carried a significant appropriation. My amendment does not mandate nor does it carry an appropriation and limit the cost of the program to the fees received. Now I am not going into broad detail but remind you of just two or three points. One is that recidivism in DWI is 33% less among those who went to school in comparison to those who did not go to school. I think that is a significant point to bear in mind. The court system has approved this and given it wide acceptance. In the last year there were over 2,000 voluntary referrals to this program and it does have the support of the Department of Safety and the Department of Health and Welfare. I heard a lot of testimony on the 18 year old drinking bill which said if we could save one life it would be worth it and I'm sure that this also can be worth it if we save not only a life on the highway by somebody who does not return to the problems of DWI but also helps to redeem and rehabilitate the person who has been once convicted so I strongly believe in this kind of educational program to help reduce the problems of alcoholism. I urge you to defeat the present motion which would place it on second reading and then my amendment would then be in order.

Sen. ROCK: Senator do you remember last session when we made a very strong and sincere effort to clear up this matter of ASAP and DWI by a Senate proposal that would have kept ASAP in business and would of also given the relief that many Senators feel was necessary from the first offender for whom that one extra beer is facing loss of job, breakup of family and the things that go with that 90 day loss of license and that effort by the Senate failed after we had passed it and it was defeated in the House, it would have kept ASAP alive and been a logical solution to this problem, do you remember that?

Sen. JACOBSON: Yes that was SB 26 which was reworked in the Finance committee to base it on the Massachusetts law. That ran into all kinds of roadblocks including roadblocks from the Police, the Department of Safety, and a whole host of other people. This one here does not have the

punch that that amended version of SB 26 had, nor does it have the controversial elements therein.

Sen. ROCK: Was one of those roadblocks to your recollection, Senator, some of the very same people in ASAP who are now back here trying to get you to revive and continue this program?

Sen. JACOBSON: I do not know of the ASAP people being involved in it at all because I spoke to them afterwards and they went along with it, reluctantly they wanted something more like what is present in HB 503 was, but I don't remember that they did.

Sen. ROCK: Have you heard Senator that this program that was proposed by the Senate Finance and adopted by the Senate is working very successfully by Massachusetts.

Sen. JACOBSON: That was the testimony last year and I supported that particular program but we could not get that by the House and what we or I am trying to do is at least keep the program alive on the move minimal basis.

Sen. ROCK: Senator would you believe me if I told you that I have talked with some people that have been through this program and it is a chamber of horrors and in many cases ineffective and in other cases far beyond the psychoanalyst's couch as to what these people have to go through in these programs some times?

Sen. JACOBSON: I have not heard that but if you have heard that why I would accept your testimony.

Sen. ROCK: If we don't adopt your amendment is it true that the ASAP project goes out of existence in New Hampshire?

Sen. JACOBSON: On July 1 or June 30th.

Sen. ROCK: Isn't that what they said last year, that if we didn't do this then they would have to go out of existence on July 1 and that would be the end of ASAP and it wasn't the end of ASAP, they kept right on trucking along?

Sen. JACOBSON: That is probably within the realm of truth.

Sen. ROCK: Can we expect the same thing will happen again if we defeat your amendment, it will still keep trucking along doing its chamber of horrors?

Sen. JACOBSON: Well one of the problems I have always had not finished.

Sen. BOSSIE: Is this germane, whether it would be acceptable into the other House. The committee recommenda-

tion is that it be forwarded to interim study, now Senator Jacobson's amendment, if it should pass, is the question then on shall the bill be sent to interim study?

The CHAIR: The question right now before the Senate is the recommendation of the committee that it be returned to committee for interim study. That would be the question. If it is defeated then Senator Jacobson's amendment would be taken up.

Sen. BOSSIE: Thank you.

Sen. HEALY: Mr. Chairman I rise in support of this amendment. I have had some experience and some observations where DWI cases appeared and people appeared in court, it has sort of a touch of compassion to it. A judge would hand out a minor fine provided that the victim guilty of drunken driving would report to this ASAP program, participate in the schooling and in return if he followed the rules and regulations faithfully he would be given the exception of a heavy fine not only that it was important to his family and to himself receive a lot of training from what I understood and from all reports that I have ever heard about this program they have been nothing but good, very effective and in very many cases defendants in court on DWI cases who have gone to those schools and come back and reported to court and so forth and they have done well afterwards so I want to highly endorse this amendment.

Sen. ROCK: Mr. President if I vote yes on the present motion before us to send this matter to interim study that effectively precludes the addition of the amendment as proposed by the Senator from the 7th district?

The CHAIR: At this time it would.

Sen. ROCK: If I felt that the Senator from the seventh district should have some further study on his amendment how could I attach the amendment to the bill now recommended to go to interim study, would it be proper to say that we also recommend that the amendment as proposed by Senator Jacobson get a proper study?

The CHAIR: Right now the question before the Senate would be to send this bill to interim study by the committee on Judiciary. If this was defeated the next question would be the amendment as proposed by Senator Jacobson. Relative to the vote taken on that, up or down, then further action would be open to the Senate.

Sen. ROCK: Would the chair accept a motion to send the

amendment as proposed by Senator Jacobson to interim study with the bill?

The CHAIR: We have a course open whereby if this were voted to be sent by the Senate now to interim study we would assume that the committee on Judiciary in their wisdom would take with them the amendment as proposed by Senator Jacobson.

Sen. ROCK: And we could make that part of the intent on the motion that we hope that the Senate on Judiciary would also consider the amendment by Senator Jacobson when it is studied and the rest of it without formally amending?

The CHAIR: It cannot be included in the motion but the intent of the Senate.

Sen. BRADLEY: It has been the policy of the Judiciary in the past and I am sure that we can make it the policy of the future, to when we study anything in interim, to consider any germane amendments which anyone wants to propose to it so we would clearly be in a position to do that if Senator Jacobson wanted to propose it.

Sen. Bergeron requested a roll call. Seconded by Sen. Lamontagne.

The following Senators voted yea: Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Provost, Brown, Bossie, Foley, Lamontagne, Poulsen, Smith, Gardner, Bradley.

The following Senators voted nay: Bergeron, Jacobson, Saggiotes, Healy, Fennelly, Downing and Preston.

16 yeas      7 nays



Adopted. (It is the intent of the Senate that the amendment discussed by Sen. Jacobson be considered by the committee.)

### VACATE

Sen. Downing moved that HB 596 be vacated from the committee on Ways and Means to the Committee on Finance.

Adopted.

Sen. Monier moved that HB 57 be taken from the table.  
Adopted.

HB 57, relative to security deposits of tenants of residential premises.

Sen. Monier moved an amendment to HB 57.

### Floor Amendment to HB 57

Amend RSA 477:48, I(a) as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

(a) "Landlord" means a person and his or her or its employees, officers, or agents who rents or leases to another person 25 or more rental units, including space in a mobile home park as regulated by RSA 205-A and in a mobile home, for other than vacation or recreational purposes, or a person who rents or leases any unit if the person or persons occupying such unit are 60 years of age or older.

Sen. MONIER: If you will look on page 14 of today's calendar is what you passed on, which was an amendment to HB 57 which has been brought in by the Judiciary Committee shown on the calendar as ought to pass with amendment. You accepted the amendment. If you will look at little a on page 14 you will read, "landlord means a person and his or her or its employees, officers, or agents who rents or leases to another person 25 or more rental units, including space in a mobile home park and so forth. The amendment that I wanted to add was one which had been suggested earlier and for some reason or other it got left out or had not had a

chance and this was to protect some of our elderly citizens who also on these security deposits had a lot of problems with security deposits and getting them back without going through due process. I have spoken to Senator Bossie about this and he agreed that this amendment would be all right. So where you come onto recreational purposes this amendment says not period but comma, or a person who rents or leases any unit if the person or persons occupying such unit are 60 years of age or older. The purpose of this is to protect the senior citizens in our state who have some of these kinds of problems and have to go through judicial process and costs them money and so forth but may be in areas where there are not 25 units. They might be in a single family house where they have a small mother-in-law apartment or some such nature or a person who has two apartments in a house and therefore they would not be covered by the acts of this law unless there are 25 units or more. So it is that declaratory statement added to what is already in the amendment that I have asked you to accept.

Sen. BRADLEY: I rise in support of Senator Monier's amendment. I think it has a very worthy object. It does raise a question in my mind about how you determine the age and you are going to get involved in charging discrimination but whatever the questions are I think that the right thing to do is to put this on and presumably we can find out the answers to any questions we have between now and when the House has to act on it or a committee of conference.

Sen. MONIER: I agree with what you are saying Senator Bradley. This is one of the reasons that I went into some discussion with legislative services on the fact that it doesn't say elderly citizens, it just says 60 years or older which doesn't define much on purpose but the point is there and that is the intent and I would like to have it on the record.

Amendment adopted. Ordered to third reading.

Sen. Bossie moved that HB 703 be taken from the table.  
Adopted.

HB 703, establishing a dog control law.

Sen. Bossie moved an amendment to HB 703.

## Amendment to HB 703

Amend the title of the bill by striking out same and inserting in place thereof the following:

## AN ACT

establishing a standard dog control law if adopted by a city or town.

Amend RSA 466:30-a as inserted by section 1 of the bill by inserting after paragraph IV the following new paragraph:

V. The provisions of this section shall not be effective in any city or town unless adopted by a city or town pursuant to RSA 466:30-b.

Amend RSA 466:30-b as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

## 466:30-b Procedure for Adoption.

I. A town desiring to adopt the provisions of RSA 466:30-a may have the question placed on the warrant for a town meeting at which town officers are elected in the manner provided in RSA 39:3. Such question shall be presented for voter approval in the following manner:

(a) For a town which has an official ballot for the election of town officers, the officer who prepares the ballot shall place the question on such official ballot as it appears in subparagraph (c).

(b) For a town which does not have an official ballot for the election of town officers, the clerk shall prepare a ballot in the form as provided in subparagraph (c).

(c) The wording on the ballot of any referendum for the adoption of RSA 466:30-a shall be as follows: "Shall we adopt the provisions of RSA 466:30-a which makes it unlawful for an owner of any dog licensed or unlicensed to permit said dog to run at large, except when accompanied by the owner or custodian, and when used for hunting, herding, supervised competition and exhibition or training for such?"

(d) Upon the ballot containing the question shall be printed the word "Yes" with a square near it at the right hand of the question; and immediately below the word "Yes" shall be printed the word "No" with a square near it at the right hand

of the question. The voter desiring to vote upon the question shall make a cross in the square of his choice. If no cross is made in a square beside the question, the ballot shall not be counted on the question.

II. A city desiring to adopt the provisions of RSA 466:30-a may have the question placed on the official ballot for any regular municipal election for the election of city officers upon a vote of the city council or upon submission of a petition signed by 5 percent of the registered voters of the city to the city council. The question shall be placed on the official ballot by the city clerk with the wording and in the form provided for in paragraph I, (c).

III. If a majority of the voters present and voting on the question shall signify their approval thereof, RSA 466:30-a shall be declared to have been adopted and the provisions of RSA 466:29-a, and 30 and any other provisions of law to the contrary shall not apply. The city and town clerks shall, within 10 days after said election, certify to the secretary of state the result of the vote on this question.

IV. If any city or town adopts the provisions of RSA 466:30-a and desires to rescind its action, it may do so by referendum pursuant to paragraph I or II of this section by changing in paragraph I(c) the word "adopt" to read "rescind" in the question on the referendum.

Sen. BOSSIE: This is an amendment that Senator Jacobson and I have prepared because of the fact that the bill the way that it originally was mandated that in November of 78 it was to be placed on the ballot that all towns or cities shall accept or reject a leash law. Well as we know now towns are authorized through their board of selectmen to adopt ordinances for leash laws. Now why have it as mandatory when you already can do it. This will provide that in addition to allowing the selectmen to pass the ordinance that the town may through procedure, put the question of a leash law on the annual town meeting ballot. Be on the ballot, people can vote for it or not and if they vote for it they'll be a uniform way acting in accordance with the law. If they don't vote for it that's wonderful too. It leaves it up to the towns where it should be, it gets rid of the foolishness of requiring an election for it. So we ask you to agree with the amendment.

Amendment adopted. Ordered to third reading.



## ANNOUNCEMENTS

Sen. Hancock moved that HB 1090 be taken from the table.  
Division vote: 10 Senators voted yea. 10 Senators voted nay.  
Motion failed.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, June 9 at 11:00 a.m.

Adopted.

## LATE SESSION

## Third Reading and Final Passage

HB 1117, providing for the local regulation of excavations.

HB 249, relative to personnel of certain agencies which receive federal grants-in-aid.

HB 858, correcting errors, omissions and inconsistencies in the RSA and session laws and conforming existing law to the criminal code.

HB 235, to permit stolen and other property to be restored to rightful owners in advance of trial or appeal.

HB 931, relative to the ability of a defendant to pay a judgment.

HB 1069, relative to municipalities employing prosecutors for district or municipal courts.

HB 1087, to extend the voluntary commitment of certain patients at New Hampshire hospital.

HB 386, relative to liens on vessels, boats and vessel or boat motors.

HB 662, amending the methods of giving proof of financial responsibility.

HB 505, relative to parking facilities at Hampton Beach and making an appropriation therefor.

HB 517, providing for the acquisition of a tract of land to be known as the Pine River state forest and making an appropriation therefor.

HB 479, relative to disability retirement benefits under the NH retirement system.

HB 261, to reimburse the town of Dummer for revenue lost due to the taking of Pontook dam and to provide for payment of claims to Kenneth M. Beck and Rufus W. Bly and making an appropriation therefor.

HB 284, relative to transfer of classification in the retirement system and making the deputy commissioner of safety a group II member of said system and making an appropriation therefor.

HB 828, creating the position of deputy commissioner of health and welfare.

HB 876, relative to prior service credit of group I members of the retirement system.

HB 78, increasing the fees for hunting and fishing licenses; revising the fees for members of the armed forces; requiring an agents special accounting for the period ending June 26, 1977.

HB 1181, relative to prorating motor vehicle permit fees.

HB 809, relative to staff requirements for the bureau of certificate of title in the division of motor vehicles of the department of safety.

HB 244, relative to compensation of deputy registers of probate and prohibiting the register of probate from holding other public office.

HB 1038, relative to providing criminal penalties for the copying of recorded devices.

HB 853, relative to the distributorship disclosure act.

HB 1083, relative to time-of-day electric utility rates.

HB 159, relative to equine infectious anemia.

HB 652, relative to the sealing and certifying of ballots.

HB 838, to assure the appearance of nominees on the ballot.

HB 757, relative to the designation of office on ballots.

HB 1188, concerning membership of the ballot-law commission.

HB 213, relative to reconsidering an action taken at a town meeting, village district, or school meeting.

HB 57, relative to security deposits of tenants of residential premises.

HB 703, establishing a standard dog control law if adopted by a city or town.

Adopted.

Sen. Lamontagne served notice of reconsideration on HB 1083.

Sen. Brown moved to adjourn at 3:50 p.m.  
Adopted.

## *Thursday, June 9*

The Senate met at 11:00 a.m.

Sen. Bossie in the chair.

A quorum was present.

The prayer was offered by Rev. Dr. Vincent Fischer, Senate Chaplain.

Father we thank Thee for this day—and we hope that Thou will give us strength to carry on our work—and calm us down—as we face the deadline today.

May we never be adverse to change—whensoever it is directed into the right channels—and that through Thy help we may bring them to fruition.

Hear, and help us Lord!

Amen

Sen. Fennelly led the Pledge of Allegiance.

### HOUSE MESSAGES HOUSE REFERRED TO INTERIM STUDY

**SB 84**, authorizing limited police powers to title investigators, fire investigators and licensing officers of the department of safety.

**SB 138**, relative to an alternative form of county government.

**SB 150**, providing an appeal procedure for persons denied a license to operate a motor vehicle for failure to pass a visual acuity examination.

**SB 195**, defining and restricting the meaning of “owners” as used in zoning changes.

**SB 210**, recodifying the probate laws of the state and incorporating some of the provisions of the uniform probate code.

**SB 302**, relative to the time for completing improvements of subdivisions for vesting rights thereafter.

**SB 318**, relative to alternative civil proceeding to declare material obscene and to terminate its dissemination.

**SB 363**, revising guardianship procedures.

### HOUSE CONCURS

**SB 147**, relative to posting a bond or certification of assets by manufacturers, importers or distributors of motor vehicles to insure warranties.

**SB 177**, relative to preventive measures for forest and brush fires.

**SB 299**, authorizing the establishment of municipal development districts.

**SB 263**, establishing a procedure to discontinue certain capital reserve funds.

**SB 240**, permitting towns to appropriate money for day care centers.

**SB 238**, relative to waiving competitive bidding for the city of Manchester under certain conditions.

**SB 203**, relative to the employment of attorneys to assist the Hillsborough county attorney.

**SB 193**, permitting public service as an alternative sentence for conviction of certain crimes.

**SB 117**, relative to the statute of limitations on an action for paternity.

**SB 187**, relative to the New Hampshire Vermont interstate school compact.

**SB 174**, relative to placing a neglected child under the supervision of the director of the division of welfare.

**SB 132**, relative to the compensation and benefits of certain permanent policemen in case of death or disability.

**SB 153**, relative to units of measure in the sale of wood.

**SB 221**, requiring the office of state planning to estimate annually the resident population of cities and towns within the state.

**SB 207**, relative to foreclosure sales.

**SB 168**, adopting a safe drinking water act for New Hampshire.

**SB 59**, relative to cease and desist orders issued by the water supply and pollution control commission.

**SB 270**, relative to municipal immunity.



## HOUSE REFUSES TO CONCUR

**SB 162**, relative to the number of sets of special number plates that may be issued to a member of the general court.

**SB 156**, relative to the director of divisions in the department of resources and economic development.

**SB 343**, making an appropriation for the American and Canadian French cultural exchange commission.

**SB 291**, permitting a local option to adopt property tax exemption for property improvements and rehabilitation.

**SB 209**, relative to the publication of tax sale notices.

**SB 10**, relative to prejudgment attachments.

**SB 184**, relative to the time involved for a final disposition of a neglected child and providing that the placement of a neglected child, person in need of supervision or delinquent child shall not be at state expense.

**SB 346**, relative to liens on mobile home park owners.

## ENROLLED BILLS REPORT

**HB 498**, relative to the state's burden of proof in recommitment hearings for the criminally insane.

**SB 190**, relative to the registration of lobbyists.

Sen. Lamontagne for the committee.

## COMMITTEE REPORTS

**HB 546**, relative to detective and security agencies. Ought to pass. Sen. Poulsen. for the committee.

Sen. POULSEN: This bill changes the RSA's to allow the bonding and licensing not only of detectives but of security agencies because they have never been under the law before. It sets up licensing procedure, it charges a fee of \$50.00 for a single, \$250.00 for an agency. They come under the jurisdiction of the state police. I think it is a good bill. I think that they should have been covered and weren't.

Adopted. Ordered to third reading.

**HB 586**, to provide for the licensing and regulation of plum-

bers and making an appropriation therefor. Ought to pass with amendment. Sen. Brown for the committee.

Sen. BROWN: Mr. President, this bill creates a state board for licensing and regulations of plumbers. In the makeup of the board the committee amendment changes the original bill from 2 master plumbers and one journeyman to one journeyman and 1 master and two members representing the consumer. Originally it was one member of the consumer. The second amendment is in relation to the grandfather clause. In the original bill it was stated that you could be permitted in under the grandfather clause, he had to be a licensed journeyman or master within a city in a state that has licensing for plumbers. The amendment also states that he can be grandfathered in plus it is reciprocal from another state plus as I said this covers just cities. It doesn't cover towns. Towns presently do not have the licensing but there are numerous plumbers who work in the town so this and we have added as an amendment in the committee, to allow these plumbers with a notarized evidence, stating that they have made their living for at least two years to the satisfaction of the board they can also be grandfathered in. Under exemptions, the original bill had heating installers only, that is installation of boilers in homes and so forth. We have added in the committee as an amendment for exemptions the exceptions, installers of heating, cooling, air conditioning or domestic hot water systems whether solar, gas, oil or electric and persons engaged in the installation or servicing of water softeners or swimming pools. These people do not plumb a house or a building. They just do their specific trade and they hook on and there has been no damage in the past and we don't feel that they should have to be licensed under the plumbers. In the true essence of the word they are not plumbers. It is intended by this regulation that the board shall promulgate their own rules and regulations that are necessary to grant but not to set wages or the amount of premises versus journeymen. That is the extent of the bill ladies and gentlemen.

Sen. BRADLEY: This is the so called plumber registration?

Sen. BROWN: That is correct.

Sen. BRADLEY: Plumbers up until now have not had to register?

Sen. BROWN: That is correct. They do in the cities such as Portsmouth, Manchester, where they have licensing for plumbers, that is all in the state.

Sen. BRADLEY: The concern that a number of people have come to me with on this is how much work can you do on your own or have someone do for you?

Sen. BROWN: A master plumber can do his own work and hire people to do it. A journeyman cannot hire people, he has to work along under his ticket and for someone else.

Sen. BRADLEY: I just had the floor in my bathroom taken up and replaced. To do that the carpenter and the floor man had to take up the bowl and remove it, stuff some stuff in the stack and that was off for a couple of days. And then when they got the linoleum back down they put the bowl back on. None of the them are plumbers, none of them are associated with plumbers, are they still going to be able to do that sort of thing?

Sen. BROWN: Only the owner of the home can do his own work. If you hire a plumber as I understand it he shall be licensed.

Sen. BRADLEY: How about another situation where it has been brought to my attention. A summer camp where the people that run the camp have done some of their own plumbing and they have a problem with say the toilet and they have to replace it or repair it. None of them are plumbers but they have been doing it.

Sen. BROWN: If it is their own domain, they own it, they can do their own work and it is in the bill and states that.

Sen. Bradley moved that HB 586 on the table.

Division vote: 11 Senators voted yea. 5 Senators voted nay  
Adopted.

HB 803, relative to insuring the proper disclosure of information from vital records. Ought to pass. Sen. Brown for the Committee.

Sen. BROWN: HB 803 and the following bill HB 686 are companion bills in relation to the bureau of vital statistics. Both these bills were jointly sponsored by the Bureau of Vital Statistics and the New Hampshire Cities and Towns Clerks. As you probably saw some weeks back on the 60 minutes

program it showed in relation to how ID cards are falsely used in the abuse of the vital statistics. These two bills were sponsored to prevent that and tighter security on these vital statistics. It allows at the local level and the bureau to keep tighter control and that no one can access to these records unless they have a direct and tangible interest in such records. It goes on to state that the registrar, a member of his immediate family or his guardian or his legal representative. Now his legal representative could be his lawyer, attorney, physician, funeral director, or other authorized agent acting in behalf of the registrant and his family. It also states that members of the press have availability to this provided it is of public nature in other words, of interest to the public.

Sen. FOLEY: In this regard Senator Brown if a girl has a baby and puts down the father of the baby as someone she is not married to and he goes in and asks for a birth record he is really not a relative, would he be then entitled to a birth record to see what she put down.

Sen. BROWN: You got me there. It did state in testimony, Senator Foley, pertinent information was not being put down because it was an embarrassing situation and this would force them to do so that they would have actual records.

Adopted. Ordered to third reading.

HB 686, relative to the duties of persons involved with vital statistics. Ought to pass. Sen. Brown for the committee.

Sen. BROWN: Mr. President as I stated earlier this is a companion bill. This is the penalties for not complying with the previous bill and it states that it is a class B felony. If anyone willingly or knowingly makes a false statement in the certificate record or report, or he counterfeits or amends or steals, he shall be guilty of a misdemeanor if he wilfully or knowingly refuses to provide information required by this chapter of regulations. Wilfully, or knowingly transports or accepts for transportation these vital statistics without authority to do so.

Adopted. Ordered to third reading.

HB 700, extending the time a real estate salesman may not be



associated with a broker without losing his license. Ought to pass. Sen. Healy for the committee.

Sen. HEALY: Thank you Mr. Chairman. If you will note in the analysis of this bill it says the license shall be valid from six months to three years. It should say from six months to two years. That is a correction, a typographical error in the analysis. The bill concerns real estate salesmen who have passed the test by the real estate board and become qualified real estate salesmen. In turn they have to become associated with a broker and if they haven't been assigned or associated with a broker for six months and an active real estate salesman, they would lose their authority to continue as salesmen and if they wanted to go back later on and become real estate salesmen they would have to retake the examination and these examinations are getting tougher with time. Now I think this is a very fair bill because there was a period of time when the real estate salesman were having some problems and many of them had to leave the brokerage firms because they couldn't sell real estate because there were no buyers and as a result they had to take private jobs if they could find them. During that period of six months which is not too long they would lose their license if they were working somewhere else and they were not working for a brokerage firm. Another thing, if a real estate salesman should become ill or in case of being a woman she becomes pregnant and couldn't attend to her business and for six months was out of work with the brokerage firm, she thereby would lose her license and if she wanted to go back into real estate business she would have to take the examination all over again. It just extends the period to two years instead of six months. I hope the Senate will look favorably on this bill and pass it.

Adopted. Ordered to third reading.

HB 673, amending the Conservation Commission Enabling Act by increasing the commission's responsibilities. Inexpedient to legislate. Sen. Healy for the committee.

Sen. HEALY: This bill concerns the duties of a conservation commission by including the responsibility of studying and planning of the energy related problems and so forth in

conservation. After due consideration the committee unanimously decided that this was a useless bill and didn't do much for the commission and as a result we decided that it was inexpedient to report.

Adopted.

HB 1113, permitting the withdrawal of a pre-existing district from a cooperative school district. Ought to pass with amendment. Sen. Smith for the committee.

#### Amendment to HB 1113

Amend RSA 195:27, as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

195:27 Liability of Withdrawing District. Each withdrawing district shall remain liable for its share of the indebtedness of the capital costs of the cooperative school district which is outstanding when the withdrawal vote takes effect, and the withdrawing district shall pay to the cooperative school district annually (a) that percentage of the payments of principal and interest of such debt thereafter due which is the same as the percentage for which the withdrawing district was responsible in the school year immediately preceding the effective date of the withdrawal vote, and (b) all amounts of state aid for the purchase or construction of school buildings and any other state aids which are lost by the cooperative school district after the withdrawal of a district as a result of such withdrawal, as determined by the state board of education, except that the withdrawing district shall not be liable for any indebtedness or loss of state aid or other aid contracted after the district has duly notified the remaining districts in the cooperative that a withdrawal study is being requested. Payments in discharge of such liability shall be made in accordance with a schedule agreed upon by the school board of the cooperative school district and the withdrawing school district or, in the event they fail to agree, as fixed by the state board of education. Such payments shall be deemed to be trust funds and shall be applied by the cooperative school district solely in payment of its indebtedness which was incurred to finance cooperative school facilities and which was outstanding on the effective date of

the withdrawal vote. A school district which withdraws from the cooperative school district shall forfeit its equity in any cooperative district schools.

Amend RSA 195:30, as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

195:30 Time of Withdrawal. The vote to withdraw from a cooperative school district shall take effect on the July 1 of the calendar year one year subsequent to the date on which the withdrawal vote is passed. After passage of the withdrawal vote and the issuance by the state board of education of its certificate of withdrawal, a special meeting of the voters in the withdrawing district shall be held at a time set by the state board of education. If a majority of voters present and voting reject the plan, the withdrawing district shall have the right to appeal such vote to the state board of education. The state board shall upon receipt of such appeal investigate and report back to the district of its findings and recommendations, at which time there will be another special meeting for a vote of reconsideration. The warrant for this special meeting, approved by the state board of education and signed by the commissioner, shall provide for the election of officers in the withdrawing school district. The district officers elected at said meeting shall take office immediately and shall carry out the duties of their office and may take any action otherwise permitted by law which is necessary in order to carry out the provisions of the withdrawal.

Sen. SMITH: Mr. President the amendment allows for an appeal in case the vote at the meeting of the cooperative district fails to allow for separation or division of the cooperative school district. The amendment also sets up the structure for liability on bonding a little bit more firmly than before. What the bill does basically is to set up a means whereby cooperative school districts may separate. It sets up a system and a means in enabling and allowing them to do it and the existing district has to meet certain requirements and then be approved for a plan upon withdrawal. We think this is a well-worked out bill, one that has given, will be needed in the future as districts may wish to shift where they are sending their students. I hope the Senate will go along with it.

Sen. JACOBSON: In this bill the word district really means pre-existing school districts?

Sen. SMITH: That is correct.

Sen. JACOBSON: So that pre-existing school districts is the one that actually has the action. I am talking about the appeal factor now.

Sen. SMITH: You mean the one that existed before the cooperative school?

Sen. JACOBSON: The phrase withdrawing district is meant to mean the pre-existing school district.

Sen. SMITH: Right, or town district generally.

Sen. JACOBSON: Mr. President I rise in support of this bill. There have been cooperative school districts that have been formed at one time and now the reasons for their formation in the total frame may not be as valid as it once was before. Some of the important factors for that change is that some pre-existing school districts have grown more rapidly than anticipated and others have not grown as rapidly as anticipated. Furthermore, what was once a feasible school district in terms of transportation no longer is a feasible school district because the cost of transportations have risen so rapidly and therefore this at least provides the opportunity to withdraw which did not exist before. The prior system was extremely complicated and this at least provides the mechanism, I would have preferred maybe even an easier method and also I would have preferred that there could have been some forgiveness of certain debts if the remaining members of the school district so ordered it. Because I think that some kinds of forgiveness might in the long run be actually beneficial to the pre-existing school districts that remain in the cooperative school district. Nonetheless I think this is a step in the right direction.

Amendment adopted. Ordered to third reading.

HB 690, revising RSA 483-A relative to dredge and fill providing greater local participation in the decision-making, allowing towns and cities to designate prime wetlands, sets forth a filing fee, repealing RSA 431 relative to swamplands; and modifying the composition of the wetlands board. Ought to pass with amendment. Sen. Hancock for the committee.



Sen. HANCOCK: Mr. President I would first like to say that I don't think the President should refer to the girls. Our young aides here will get our lunch but I don't think you should summarily say the girls.

The CHAIR: That is correct and the record will so indicate.

Sen. HANCOCK: Mr. President, members of the Senate I think that I would just like to preface my report of this bill by saying that the importance of wetlands in the ecological system has been recognized by the state of New Hampshire for some time. The 1967 session of the legislature funded the water resources board to study wetlands and establish a wetlands protection program for the state. And to achieve these objectives all available information on wetlands in New Hampshire was gathered, evaluated and cataloged within the scope of that study and a report on the subject was printed and was available from the Water Resources Board. The report outlined the values of both fresh water and salt water wetlands, the threat of destruction, the methods of protecting wetlands, the ownership of wetlands, applicable laws and wetland acquisition costs and sources of federal funds to help. We have had since 1969 a so-called dredge and fill law. The importance of 690 is to give more local participation in that wetlands designation and decision process. There has been an amendment to the composition of the wetlands board and that is in your house calendar on page 13. The present member board is a 14-member board. The new member board would be 17 members giving representation to one conservation commission member, one local, elected official, one regional planning commission member, the entire membership of the water resources board which is five members and the other members are the same except for the commissioner of public works and highways who is added to this board. The legislation requires the filing of a map of local officials giving the actual location and the detailed plan if it is a major project and major and minor projects will be determined by the commission, they are currently defined in the dredge and fill regulations which now exist. It gives filing fees to the state, \$2.00 to town or city clerk to help cover administrative costs. It keeps the authority to grant permits at the state level where courts have ruled that there is pre-emption under existing laws, provides that the wetland board shall not grant any permit in an area designated prime wet-

land unless there is substantial evidence of record that it will not impair the value of the area. Essentially it makes some changes in the current law but not a great deal other than giving local participation. It also revokes an 1880 law which had determined that it was a good idea to fill in wetlands. So we commend this to your encouragement. We encourage you to pass this proposal.

Sen. Rock moved that HB 690 be laid on the table.  
Adopted.

HB 439, authorizing the water supply and pollution control commission to implement the provisions of RSA 146-A relative to oil spillage in public waters and making an appropriation therefor. Ought to pass with amendment. Sen. Foley for the committee.

Sen. FOLEY: Mr. President, many times there are oil spills and by the time the governor and council meet to present money in order to take care of the spillage and decide who is at fault the spillage is large and it is almost impossible to do anything. This bill would provide a way to get contingency funds and money that would take care of this problem. The bill we amended because it was felt in one section that the words on this were too broad and we have amended it to hopefull take care of any problems that anybody might have with the broadness of the way that this was worded. We feel that it is a good bill, that it will take care of the problem that we have had in immediate oil spillage and we urge its immediate passage.

Sen. ROCK: Senator Foley I have the Senate environment amendment to 439, is that the amendment that you are proposing at this time?

Sen. FOLEY: Yes, it is the same that is in the bill. What we have left out in the amendment, it is the same part as section 2, it says exactly except that we have left out after 6, propane natural gas and any chemical with a petroleum base.

Sen. ROCK: In reading your amendment to 439, roman numeral 2, I see that it says, "the director of motor vehicles shall collect a tax not to exceed 1c per barrel for the purpose of this section, a barrel meaning or an appropriate equivalent measure set by the Director of the Bureau of Weights and Measures other than fluid not commonly meas-

ured by the barrel and on oil, gasoline diesel." My question is Senator Foley, under roman numeral 2, the money that the motor vehicle director collects goes where?

Sen. FOLEY: It goes to a contingency fund and I would presume that this bill if the people in the Senate or the Senators are agreeable to the fact that we need this type of thing, will go to the Finance Committee.

Sen. ROCK: Could you tell me what the contingency fund would be used to do?

Sen. FOLEY: Well as I understand it the contingency fund would be used to take care of the immediate problem that would occur if there were spills.

Sen. ROCK: Senator, would you give me your interpretation of what the following means. I am going to quote to you from Part the second, article 6a of the constitution: "Uses of certain revenues restricted to highways. All revenue in excess of the necessary cost of collection and administration accruing to the state from registration fees, operators license, gasoline road tolls or any other special taxes or charges with respect to the operation of motor vehicles or the sale or consumption of motor vehicle fuels shall be appropriated and used exclusively for the construction, reconstruction and maintenance of public highway within that state". Would you tell me what that means?

Sen. FOLEY: I understand just what you are saying, you are feeling that what we are doing is unconstitutional. We worked with the attorney general's office a, Mr. Stever, on this and on the amendment and he assured us that he felt that it was constitutional to use the motor vehicle for the oil, the amount of money that was raised from the motor vehicle department for this purpose. Now if it goes to finance and the finance committee feels that this is not constitutional then it would be up to them but we felt that this was a good bill, that there is a problem with oil spillage and we felt that this would be a way to do it. And the House thought so too.

Sen. ROCK: Notwithstanding that the House has been known to make some serious errors this year already, you do not agree with me then that article 6, part the second of the constitution which restricts the use of fuels, motor vehicle fuels exclusively for construction, reconstruction and maintenance of public highways within this state including the supervision of traffic thereon etc. You don't agree with that?

Sen. FOLEY: All I can tell you is that we contacted the attorney general's office and they made up the amendment and they told us that they felt it was constitutional.'

Sen. ROCK: Thank you Mr. President. Mr. President I have very great difficulty with this legislation. I think that while there are parts of the constitution that may have some difficulty in some of us understanding the meaning, and some footnotes may cause us to go searching into statutes. Article 6a, particle second of the constitution is very clear and very simple in one and two syllable words that says you can't use anything from the motor vehicle fuel other than for the highways. And there are no highways that I know of between here and England that could be construed in any way to be the roadways of the public highways of the state. I understand what the Senator is saying, we have problems with oil spills, I sympathize with that, I think we should be doing something to try to help fund the clean up. But you can't do it with this one because if you do you are flying in the face of the constitution. So I would move at this time that HB 439 be indefinitely postponed.

Division vote: 11 Senators voted yea; 5 Senators voted nay.

Amendment adopted. Referred to Finance under Rule No. 24.

HB 877, relative to the filling of vacancies on the Laconia school board. Ought to pass with amendment. Sen. Smith for the committee.

#### Amendment to HB 877

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Referendum. This act shall not take effect unless it is adopted by a majority vote of the voters of Laconia at a referendum held at the same time as the referendum to determine whether Martha's Vineyard becomes part of New Hampshire. The city clerk then in office shall cause to be placed on a separate ballot the following question: "Shall the provision of An Act of the General Court of 1977 amending the Laconia city charter by providing that vacancies on the



board of education, be filled by the board only until the next election, at which time a new member of the board shall be elected for the unexpired term be adopted?" Said question shall be printed in the form prescribed by RSA 59:12-a. If a majority of those voting on the question vote in the affirmative, this act shall be declared to have been adopted. The city clerk shall, within 10 days after said election, certify the result of the vote on the above question to the secretary of state.

Sen. SMITH: Mr. Chairman, this bill and the next one HB 1003 deal with school problems which require referendums, one in the city of Laconia and one in the city of Nashua. The committee after long and hard deliberation could not determine exactly what should be done with these two bills. There seem to be quite a bit of concern on both sides of the issue. So the committee, in its infinite wisdom amended the bills so that the referendum will take place at the same time that the referendum will on our ballots relative to the acceptance of Nantucket as part of the state of New Hampshire. It is hoped by this means that eventually we will through the wisdom of the house have a committee of conference for the peoples involved may be able to reach some agreement. I hope that the Senate will pass both of these bills.

Sen. JACOBSON: Senator, on page 14 the amendment says Martha's Vineyard, you said Nantucket?

Sen. SMITH: I meant Martha's Vineyard, oh one or the other.

Sen. JACOBSON: Do I take by this amendment that the education committee in toto has been committed to the concept of referendum on important questions?

Sen. SMITH: We believe in referendum on important questions as long as they are of a local nature.

Sen. JACOBSON: Could you philosophically interpret the constrictive character of your referendum attitude.

Sen. SMITH: Well, I believe that when it is a local issue and a concern to local people as to the structure of their government and this is my constrictive attitude, then it should be placed before them.

Sen. JACOBSON: But I was always under the impression Senator that state government also belonged to the people, is that not true?

Sen. SMITH: Yes, but I think that there have been elec-

tions determining various types of attitudes on things that in the past would determine the general trend of people's thinkings, where these are more specific questions.

Sen. PRESTON: Senator Smith, there are two references to Martha's Vineyard and I don't want to have anything to do with voting for or against Martha's Vineyard in any bills. Have these been deleted or are they actually a part of the bill?

Sen. SMITH: They are an amendment so that at the time the question comes up on our ballots in cases at some future date that Martha's Vineyard is a question that to have Martha's Vineyard a portion of the state of New Hampshire, then these questions would also go on the ballot.

Sen. PRESTON: Are we being a bit frivolous with this Senator or is this actually something that we are voting on at this time?

Sen. SMITH: This is something that we are voting on at this time and it is not in the least bit frivolous. Maybe the injection of Martha's Vineyard is frivolous but I think that it may create a situation in which people who are of differing views relative to the other aspects of this bill may reach some form of agreement through a committee of conference.

Sen. PRESTON: Senator Smith if I wanted to vote for 877 and 1003 relative to Laconia and Nashua and not for anything to do with Martha's Vineyard what do you suggest I do?

Sen. SMITH: I suggest at this junction to help the peoples of Laconia and Nashua to determine what they wish to do with setting up an independent board of education in Nashua and in the instance of replacement of the members of the boards in Laconia, that these bills be allowed to pass so that a committee of conference may be established and people from those two areas may determine for themselves what they wish to do.

Sen. FENNELLY: Thank you Mr. President. I rise in opposition to the amendment. I think that the voters of the state of New Hampshire of Nashua, Laconia have more important issues and referendums and so forth than to to fool around with Martha's Vineyard and make other headlines like it did in the past and so forth. It is just ridiculous to get into this area and I urge the senate to defeat the amendment.

Sen. SMITH: Senator this is not meant to be frivolous, it may be light. The purpose would you not say of this amend-

ment was to create a situation whereby there would be a committee of conference basically composed of the people from the two areas who under sitting down and meeting together and reasoning together, might determine how best to resolve this local problem without having it imposed by the legislature, wouldn't you say that was possible?

Sen. FENNELLY: I would say this. It is almost the same issue senator Smith as what happened in Seabrook at the town meeting for the same people, a few people wanted the town of Salisbury to secede to the state of New Hampshire and the town meeting was defeated 15 to 1. Now why are we fooling with this, Nantucket and Martha's Vineyard, I mean the area of what we are going to do if they wanted to come to New Hampshire. Are we going to buy Woods Hole from the Massachusetts Port Authority for a half a billion dollars, are we going to have the ships become big liquor stores that float up and down the coast? I mean this stuff should be dropped and dropped right now.

Sen. HANCOCK: Senator Smith, as I understand it, Martha's Vineyard, they are very unhappy because they have no representation and they feel if a bill goes through Massachusetts they won't have real representation. How are they represented today here where we are voting on something to do with them?

Sen. SMITH: They are not represented here today, all this is doing is saying that when and if that question ever went on the ballot then these two questions would.

Sen. HEALY: Senator Smith the word frivolous was used and you denied that it was frivolous, would you say the word levity might be appropriate in this condition?

Sen. SMITH: I would think that levity might be considered in this condition.

Sen. HEALY: Do you think it might be a long time before Laconia has a chance to vote on a referendum if we are going to wait for Martha's Vineyard to be on the referendum?

Sen. SMITH: I think it would be quite a while but the point of the thing is that I think that the house will also agree to that and will not go along with this bill and request a committee of conference and then the basis of this bill can be worked out.

Sen. BRADLEY: Senator Smith over in our sister state of Vermont a lot of legal instruments are written on land leases which say that this lease will go on as long as waters flow

and trees grow or something to that effect. Is this amendment something to the same effect?

Sen. SMITH: I would think that that was a fairly close approximation.

Sen. SANBORN: Mr. President I rise in support of the amendment proposed by the committee and I feel that perhaps some of the Senators to my left have failed to recognize the problem that really is here. I sat in on both of these hearings as a member of the committee and there was a very sharp division between various people that appeared before the committee relative to these two bills. And as Senator Smith has pointed out, it is very difficult for us here in the legislature, to try and be King Solomon to the two wives that came before him and instead of taking the ax and dividing the child what we are trying to do here is to get the people in the house that represent these two cities together in a committee of conference and make a final decision one way or another. This is that we are trying to do. I think it would be a good idea to have as Senator Fennelly pointed out, to have a ship go up and down the coast with a liquor store, we probably would get some money that we badly need but as you say Senator Blaisdell, we will have to put that into the budget.

Sen. BLAISDELL: Mr. President, I would just like to speak in opposition to the amendment. I think this is silly, I think it is totally irrelevant and I urge the defeat of the amendment.

Division vote: 11 Senators voted yea; 8 Senators voted nay.

Amendment adopted.

(Sen. Foley, Downing, Provost, Healy, Bossie, Preston, Saggiotes, recorded in opposition.)

Sen. Rock moved that HB 877 be indefinitely postponed.

Adopted.

(Sen. Fennelly, Healy, Blaisdell, Smith, Downing recorded in opposition.)

HB 1003, relative to a union school district in Nashua. Ought to pass with amendment. Sen. Smith for the committee.

Sen. SMITH: The same goes as I have indicated for HB 877 for this bill. I think the committee's feeling was that this should be aired, that is the reason why they came out with



the committee's report and whatever action the Senate wishes to take that is up to them.

Sen. PRESTON: Senator I read the amendment to the bill and again this relates to Martha's Vineyard. Was it the intention of the committee to have this amendment so that a committee of conference would decide?

Sen. SMITH: That is correct, on both bills.

Sen. PRESTON: Wasn't the committee able to come up with another amendment so that you could have had a committee of conference?

Sen. SMITH: We could have probably come up with some other amendment this one was the one that came to mind.

Sen. PRESTON: Could you enlighten me as to why you picked Martha's Vineyard?

Sen. SMITH: Well it seemed to be a topic of conversation recently and we felt that this was one which would be of some, catch the attention of the house so that we would be sure that there would be a committee of conference.

Sen. BLAISDELL: Senator Smith I voted with you I think this is a very important thing for both Nashua and Laconia. Wouldn't this be proper to lay this on the table, until we come up with a proper maneuver that would be acceptable to the rest of the Senate?

Sen. Blaisdell moved that HB 1003 be laid on the table.

Division vote: 10 Senators voted yea. 7 Senators voted nay.  
Adopted.

HB 23, requiring the filing of a detailed plan with the town clerk of the proposed project to excavate, fill or dredge. Ought to pass. Sen. Keeney for the committee.

Sen. KEENEY: This bill would give the towns and cities more information when an individual plans to dredge or fill. At the present time one who asks to dredge and fill usually makes out a form and that form is available in the town, a copy, but it is not very conclusive of exactly where the dredge and fill is going to take place. This bill would require that the same detailed information that is given to the dredge and fill board would also be available in those interested in the municipality where it is taking place.

Sen. BLAISDELL: Senator Keeney, isn't most of this bill, HB 23, isn't it in SB 171 as amended?

Sen. KEENEY: I don't know if it is exact.

Sen. BLAISDELL: What I am asking is where it says  $\frac{3}{4}$  of the way down on the bill, "at the time of filing with the Water Resources Board, said person shall file three copies of said notice with one or more copies of the detailed plan with the town clerk. The think that I object to Senator Keeney, and I wonder if anybody has talked about it, if you put sand on your beach I am going, people are going to have to go up and get about 14 copies. Was there anything asked about this on a major project. For instance one or more copies of the detailed plan if a major project, with the town clerk. I think that we are restricting people from going down and putting sand on our beach and I object to that.

Sen. KEENEY: The intent is not to restrict people from doing these things, the intent is to give more information of what the individual plans to do. I have copies here of requests of dredge and fill with the information filled out and they are some of the latest ones filed in my town and they only refer to an intermittent stream and only the town engineer or the individual who is doing the work could possibly know what intermittent stream is involved.

Sen. BLAISDELL: Senator Keeney, do you interpret this bill that says I can't put sand on my beach.

Sen. KEENEY: No.

Sen. BLAISDELL: Well other people are Senator Keeney, and I wonder if we couldn't . . .

Sen. KEENEY: In trying to answer your quandry, I am not certain about what SB 171 would make any difference to this but if you were just going to put sand on your beach and that is the way that you filled it out with and at least located where the beach is this bill is asking that you do that, not that you go to a great deal of expense.

Sen. BLAISDELL: Senator a few weeks ago I asked Senator Hancock in SB 171 if I could put sand on my beach and she assured me that I could. I interpret this to say that I can. Would you object to an amendment that says after detailed plan if a major project?

Sen. KEENEY: Yes because it is very difficult for the individual who is doing it to make the decision of what the major project is.

Sen. Blaisdell moved that HB 23 be laid on the table.  
Adopted.

Sen. Sanborn in the chair.

HB 409, changing the name of RSA 483-A and specifying that certain penalties relative to state waters apply to all violators. Ought to pass. Sen. Foley for the committee.

Sen. FOLEY: This bill was requested by the Water Resources Committee, it's resources board. It really is a house-keeping measure and it changes the name of RSA 483a and it changes it from tidal waters to dredge and fill control since the chapter is concerned with all waters under the jurisdiction of the state and it further changes the bill so it doesn't only say violators who are owners of the land but it says violators whether or not they are owners of the land. So it takes on people who don't own the land but who are on the land and violate. We move its passage.

Adopted. Ordered to third reading.

HB 543, relative to mining and the reclamation of mined lands and making an appropriation therefor. Ought to pass. Sen. Hancock for the committee.

Sen. HANCOCK: I would like to preface my support of the bill by saying that the coming years will almost certainly see the re-emergence of the New Hampshire Mining Industry. There have been noticeable world scarcities and the accompanying rapid rise in market prices of many minerals have re-awakened interest in the extensive low-grade ores long known to be present. As some of you may have known from your work on Finance Committee or on the appropriations committee for many years the state engaged in air-magnetometer surveys in cooperation with the United States Geological Survey and a great deal of that information was available through the Department of Resources and Economic Development. The last several years in particular have brought considerable prospecting activities especially in Grafton Course and Carroll counties. Large national and multinational firms have used equipment as diverse as aircraft with sensitive instrumentation to truck mining drilling rigs to seek out deposits which are or may soon be economically feasible to mine. At the present time the state has no legislation whatsoever which would affect a large mining

proposal. Only in operation on state-owned land or under public water bodies would come under any sort of state scrutiny under a law which is currently administered by the director of the division of forest and lands. Both the proponents of mining and those who are concerned about its effects agree that there is need for mining legislation. This bill is neither a pro-mining bill nor an anti-mining bill. What it does is to provide a simple, orderly mechanism within an existing agency allowing for the review of a mining plan. The mechanism is a permanent process requiring three things. It requires a mining plan, a reclamation plan and a bond to cover any costs which might accrue to the state. The committee received support for this bill from north country people and it sponsored by Representatives Poulin and Olson, both of whom are from Berlin. It is supported by the Brown Company and we recommend passage.

Sen. PRESTON: Senator in all honesty I have not reviewed all of this bill, my question might be irrelevant. On page 4 it says "no person shall engage in mining of earth, unclear or minerals of a 1,000 cubic yards." The question would be if there were an approved site where they had been hauling gravel. . .

Sen. HANCOCK: This exceeds sand and gravel.

Sen. PRESTON: It excludes a local gravel operation.

Sen. HEALY: Senator Hancock am I to understand that you heartily endorse this HB 543?

Sen. HANCOCK: Yes, sir the whole committee does.

Sen. HEALY: On page 2, section 3, it mentions the word uranium. You're not worried about that.

Sen. HANCOCK: No.

Adopted. Ordered to third reading.

HB 197, relative to open pit burning in towns of less than 2,500 population. Ought to pass with amendment. Sen. Keeney for the committee.

Sen. KEENEY: You have a copy of the Senate committee amendment to HB 197. What the amendment does at the request of some people whose towns are involved, it bases the population on the 1970 census. The copy of the bill 197 that you have before you was amended by the house to change the population figure from 1800 to 2500 population and then



with our Senate amendment this population figure would be based on the 1970 census. It would extend the time that small towns would have to continue their open dump burning as long as the extension was okayed by the Environmental Protection Agency and under the control of our own air pollution agency and as long as the air quality would not be that greatly affected. It would allow the small towns also to group together to take care of their burning and refuse for a little additional time.

Sen. Brown moved that HB 197 be laid on the table.

Division vote: 13 Senators voted yea. 0 Senators voted nay  
Adopted.

HB 542, relative to a state-wide solid waste management program. Ought to pass with amendment. Sen. Keeney for the committee.

Sen. KEENEY: This bill would lay the groundwork for a state-wide solid waste program. The Senate amendment would add in following completion of the plan and upon approval by the governor and you have a copy of the amendment that was passed out. The bill is the first step in an attempt to bring New Hampshire in line with the Resource Recovery Act of 1976 which the state's must have their plan ready by October 1978. It encourages a geographical regional approach to state-wide management of our solid waste. It encourages resource recovery through recycling or recovery for fuel purposes. Passing this at this time does not lock into a firm plan it is just starts us on our way to try to bring our thinking in line with solving the solid waste problem. The appropriation was cut by the house because there were funds available, \$24,000 was left in a fund that was instituted in 1973 and there is no longer an appropriation to this bill. It is expected that they will be using the \$24,000 from a non-lapsing fund.

Amendment adopted. Referred to Finance under rule No. 24.

HB 968, eliminating the 5 year requirement for reassessment of property held by a municipality for water supply or flood

control purposes. Ought to pass. Sen. Bradley for the committee.

Sen. BRADLEY: The bill was incorrectly reported as ought to pass with amendment. The report should be ought to pass. What is the appropriate motion?

The CHAIR: If there is no objection we will continue on with that assumption ought to pass.

Sen. BRADLEY: This is a reasonably simple bill. When one town owns land in another town for water supply or flood control purposes, there is a requirement in the existing law that the Commissioner of Revenue Administration must every five years review the valuation of the property whether it needs it or not. All this bill does is say that it will be reviewed by the Commissioner of Revenue Administration and if someone is dissatisfied there is an appeal procedure. It may happen more often or less often than every five years. Such property is not taxable but the town owning the land, the land within the boundary of another town, must make payments in lieu of taxes and the payment in lieu of taxes are tied to the valuation. That is the need for the valuation. All this is doing is eliminating the five year requirement.

Sen. HEALY: In looking this bill over here, on page 2, 72:11, water works, flood control, property held by a city, town or district in any other town or district for the purpose of a water supply or flood control if yearly, no rent shall not be liable for taxation therein and so forth. My question is this, does this bill give a town authority to reevaluate water supplies at any time that it sees fit or it feels like it?

Sen. BRADLEY: I believe the town in which the property is located would have the right to value it year to year, yes, but if it was not an accurate evaluation then it would be an appeal procedure.

Sen. HEALY: That is how you interpret the bill, is that correct?

Sen. BRADLEY: Yes.

Sen. HEALY: Is that the intent of the bill?

Sen. BRADLEY: I think that the intent of the bill is to simply eliminate the five-year review requirement by the department of revenue administration. It is not otherwise to effect the assessing process or the amount of assessing or telling towns how often they ought to assess it or change it. That

only goes to eliminating the review by the commissioner of revenue administration.

Sen. HEALY: Under these conditions Senator a town which has a water supply system that is perhaps used by another community, for example, they have an opportunity at about any time to review and evaluate this water supply and possibly make increased assessments on costs and so forth?

Sen. BRADLEY: I think basically it would be on the same ground as any other property in the town. That there is a general increase in assessments based on increase in values so the town could make those changes. But it has to be tied to the assessed value of the land.

Sen. HEALY: In a case which is a typical case, I come from Manchester and our water supply is mostly in Auburn. Would that put Manchester in jeopardy to have to face up every so frequently for a re-evaluation and possibly higher costs of the supply of water?

Sen. BRADLEY: I don't believe that this bill would make it any more so than it is now other than under the existing law the thing would be reviewed each five years. No, this bill does not increase the frequency by which your assessment could get changed. It simply eliminates a mandatory review every five years by the revenue department but the revenue department is still there for appeals if you don't like the assessment.

Sen. HEALY: Who would you make the appeal to. Would you make the appeal to the New Hampshire Tax Assessors or would you appeal say to the Water Pollution Commission?

Sen. BRADLEY: Commissioner of Revenue Administration I believe.

Sen. HEALY: Do you feel or can you tell me that this will not prevent the town of Auburn from frequently or annually or even biannually evaluating its water areas and decide to charge the Manchester Water Works more money for the use of water out there?

Sen. BRADLEY: I can't tell you what Auburn is going to do but I don't think that Auburn gets any right to change assessments any more often under this bill than they do under existing law.

Sen. HEALY: Well, under the existing law does not it say for assessment of property held by a municipality for water supply or flood control purposes, the act itself?

Sen. BRADLEY: The present law says that the Department of Revenue Administration has to review these assessments every five years.

Sen. HEALY: What stimulated or what provoked such a bill as this?

Sen. BRADLEY: This is one of many bills that Representative Bednar put in at the request of the Department of Revenue Administration and I believe that it is something that they view as a necessary requirement that makes them do something when there may not be any need for it to be done. They want to be in a position of doing these reviews only when it is needed.

Sen. HEALY: Would you say that the city of Manchester in which I live will be unaffected by this bill from a point of view that is under a present set-up now where review and reassessment is made, will this change, will this be an added encumbrance to the city of Manchester?

Sen. BRADLEY: Well the city of Manchester is not going to have the provision on the books that that assessment will get reviewed every five years, that is going to be eliminated. If you have comfort in that five year assessment then I suppose you are against this but if you don't think, if you think the commission only ought to have to review these things when there is an occasion to, someone is challenging someone's protesting, then you ought to vote for the bill.

Sen. HEALY: Senator would you believe that the water supply from Auburn not only furnishes the city of Manchester which is sizeable but takes care of Bedford, some parts of Goffstown, Hooksett and possibly other areas and it is gradually being expanded and therefore it has put Auburn in a very auspicious position to take a wallop at these communities tax-wise.

Sen. BRADLEY: I believe it if you say it.

Sen. HEALY: Thank you.

Division vote: 11 senators voted yea. 6 senators voted nay.  
Adopted. Ordered to third reading.

(Sen. Healy recorded in opposition.)

HB 64, prohibiting persons from seeking or holding office as a member of the general court and county commissioner at the same time. Ought to pass. Sen. Brown for the committee.



Sen. BROWN: This bill will prevent a Senator or a Representative from running simultaneously as a county commissioner. It has a grandfather's clause, no a tradition clause that states if he presently holds the office he can stay there till the expiration of his term. This bill passed the House by a plurality of 64 votes and in Rockingham county where one is presently holding that position it passed with a 43 to 21, a good sized majority.

Sen. LAMONTAGNE: What is the effective date on it.

Sen. BROWN: It says when his present term expires.

Adopted. Ordered to third reading.

HB 785, relative to cities, towns and precincts contracting with sanitary engineering firms. Inexpedient to legislate. Sen. Poulsen for the committee.

Sen. POULSEN: This bill is relative to cities, towns and precincts contracting with sanitary engineering firms. The committee voted inexpedient to legislate.

Sen. LAMONTAGNE: Mr. President I rise in support of the committee report. I personally feel that right now the water pollution commission are doing a fine job along with the Directors and as long as the matter is being held well, why not leave it alone.

Sen. Bossie moved that HB 785 be laid on the table. Division vote: 14 Senators voted yea; 0 Senators voted nay.

Adopted.

HB 1155, relative to the conveyance of property acquired by a town or city at a tax sale. Ought to pass with amendment. Sen. Poulsen for the committee.

Sen. POULSEN: This bill has to do with the sale of foreclosed property by the town. It tightens the present law in that property being sold has to go through a town meeting first off which is in the law now. Selectmen have two years in which to sell it, they cannot sell it for less than its tax value plus interest and all that the town has in the property. They have to sell it by sealed bids or a break price they cannot just take a lower price, they can't sell it individually. It has to be a public sale.

Sen. HEALY: Senator should a person in your town say, buy a piece of property at a tax sale and you say after a two year period if he pays for it, if he buys it under your provisions here, does he have the right to have a qualified title to that piece of land?

Sen. POULSEN: I think on a tax sale you never get a warranty deed, you get a quitclaim deed from the town. I think all tax deeds are essentially quitclaim deeds.

Sen. HEALY: Providing he has a quitclaim deed is there any chance of the owner who lost that land, coming back and claiming that land later on by wanting to pay back the taxes and recover the property?

Sen. POULSEN: None whatsoever if the property at the time has gone past the two year redemption period. If that has gone by he has lost all his chance of reclaiming it and I think that if a buyer was still scared or worried about that then he could get title insurance on the tax sale.

Sen. BRADLEY: Is it possible that an occasion when the amount of the tax due would be more than the lowest bid.

Sen. POULSEN: Yes.

Sen. BRADLEY: In that case what would happen, would the town have to hold it forever?

Sen. POULSEN: Yes, that is right. They would have to hold it forever until the economics changed or something else. They could not sell it under the terms of this bill.

Sen. BRADLEY: Do you think that is a wise restriction to impose on towns, shouldn't the towns be able to get out of it what the highest bidder is willing to pay?

Sen. POULSEN: If I were selling it, I would rather do it that way but we are talking about selectmen here and there under cases that we can't imagine. I think it is purely a protective statement. Now whether it is necessary or not I can't say, but that is what the bill does.

Sen. FOLEY: Senator Poulsen, I am just quickly going over your amendment from the committee. Did you read this that specific pieces of property would have to appear in the warrant and the town meeting would vote on each one specifically?

Sen. POULSEN: Yes. I understood it to be that way. That they would have to be listed separately.

Sen. FOLEY: This would no longer then allow a town to give blanket authority to the selectmen to sell by any way?

Sen. POULSEN: I think under this that it becomes individual pieces. The town votes on one by one.

Sen. LAMONTAGNE: Senator, what happens in the case when we have a law on the books today that says a senior citizen or a person who is 100% totally disabled and going through a hardship, goes over and sees the tax assessor or the board of selectmen and proves that he cannot pay his taxes and therefore the city or town takes a lien on the property and the man and wife can stay on this property until they are both deceased. Now as you know this probably might exceed the value of the property. What happens to that property in that type of case?

Sen. POULSEN: Under the terms of this bill the town would have to continue to own it. However they could rent it, or wait till the economics change and it was worth more because it would no longer be accruing taxes I don't know. But your example is good, it would definitely make a problem in a case like that.

Sen. BLAISDELL: Senator Poulsen, we have had some votes in the city of Keene in the Cities Legislation committee and they opposed this bill as really being burdensome. Now would you explain the amendment to me just once more?

Sen. POULSEN: Senator Blaisdell, you are probably thinking of the line which says justice may require, maybe that's way off the hook I don't know.

Sen. Healy moved that HB 1155 be laid on the table.  
Adopted.

HB 1073, relative to the powers and findings of zoning board of adjustment and rehearings before said board. Interim Study by the committee on Executive Departments. Sen. Hancock for the committee.

Sen. HANCOCK: This bill has some good points. Namely that it requires certain written justifications in case of denials but it also has some bad points in that if it were to pass every zoning ordinance in the state of New Hampshire would have to be redone in order to list its special exceptions. It also duplicates what is already in the law by way of defining what a hardship is and how you allow a variance. We agree that the zoning laws of the state of New Hampshire need to be rewritten, we don't intend to rewrite them through this

interim study but we would recommend that this be part of interim study and so recommend.

Adopted.

HB 365, requiring a permit or license for those engaged in the business of designing or installing subsurface sewage or waste disposal systems under RSA 149-E and making an appropriation therefor. Interim Study by the committee on Executive Departments. Sen. Poulsen for the committee.

Sen. POULSEN: It is not well-written. There are several things in it that seem to bother everyone. One thing in particular. One part of the bill they mention professional engineers, well that could be electrical engineers or chemical engineers or anyone that had input into this thing. Later on they come back in again with civil engineers and sanitary engineers. Another place in the bill they use the figure 2500 gallons, a breaking point where an engineer would be needed and a licensed installer would be needed. 2500 gallons is only like a large house or two small houses. It would seem to the committee that the bill was quite lopsided and quite unready for the world. This bill should be formed up more before it is acceptable.

Sen. JACOBSON: Senator from your testimony it seems that the problem was interpreting the technical data within the bill. Is that the issue that is at stake?

Sen. POULSEN: Not altogether Senator, some of it has to do with the main features in this type of legislation. It was thought that operations would go more quickly and smoothly, that they could put in the job, be bonded be covered up and go. It turns out that that is not so. It still has to be inspected by the water pollution people. The time element that people were striving to gain by this isn't there. There seem to be things like that all through the bill.

Sen. JACOBSON: Did you just say that the bill allowed them to cover up?

Sen. POULSEN: People hope that it would if these people were licensed but the jobs could go that much more quickly, they wouldn't have to wait for the arrival of the fellow from Concord to see if all is level, see if 1% is still 1%, but they still have to wait for that under this so there is no advantage in time in being licensed.



Sen. JACOBSON: As I understand what you are saying then is that the need to have public inspection is still on the bill?

Sen. POULSEN: It is possible under better licensing testing procedures these people could be the ones to do their own inspection, in other words bond and improve a job on their own and not have to wait for people to come out of Concord to see if level is level.

Sen. JACOBSON: Then there was an objection to the present provisos which says that it needs public inspection and that the committee felt that it should be worked out that they do not need public inspection?

Sen. POULSEN: I think that was in the committee's mind that installers could be properly qualified then that step could be eliminated. But there was no testimony to indicate that by licensing them it would be indicated. That is one of the reasons that the committee thought it should be sent to study and a better procedure developed.

Sen. JACOBSON: Is it not true that within the municipalities that we have building inspectors who do in fact and can have the authority to inspect for example an electrician's work?

Sen. POULSEN: Some do and some don't, we have no building inspector in Littleton. If a septic installer was properly licensed and bonded and accredited I see no reason why he couldn't finish the job and if there were trouble let his bond take care of it.

Sen. KEENEY: Senator could you tell me if there was testimony by any one representing the professional engineers and just what it might have been.

Sen. POULSEN: They testified and they recognized the fault in the designation of which engineering companies but they didn't come in with an amendment.

Sen. POULSEN: It's true they do for all the bigger jobs but ordinarily it's done by the installer, he does his own planning and designing.

Sen. LAMONTAGNE: But do some people have to go through engineering in applying for them?

Sen. POULSEN: I think in any large installation they have to, yes. I don't think that it is mandatory under law but they have to to get the proper design.

Sen. LAMONTAGNE: Isn't it right now necessary, even if

they are licensed, that they would still have to apply by filling out an application and having a plan with the application to be approved with the water pollution?

Sen. POULSEN: This supersedes this right.

Sen. LAMONTAGNE: So regardless of whether they are licensed or not, they still have to go through that paperwork, correct?

Sen. POULSEN: Absolutely.

Sen. HEALY: For example in the city of Manchester if you have a sewer system now, and it is a new sewer system, you by law have to tie into that within a certain period of time. My question is this, if I am working for the public works department in the city of Manchester and I am one of these designers working, would I have to have a permit to do this?

Sen. POULSEN: I wouldn't think so if you were a municipal employee, it would be done through a municipality.

Sen. HEALY: Yes, but does the bill eliminate this?

Sen. POULSEN: I don't know.

Sen. HEALY: Senator would you consider having this tabled for further qualifications to include the bill?

Sen. POULSEN: Well Senator it was for such reasons that the committee recommended interim study because there seemed to be so many unanswered questions to it that our recommendations that it be studied in the EDA until the next session. Possibly a much better bill could be brought out.

Sen. HEALY: Thank you, I'll leave it in your hands.

Sen. Jacobson moved that HB 365 be laid on the table.  
Adopted.

HB 216, authorizing the sale of bonds to cover the local share of construction costs on the Winnepesaukee river basin project. Ought to pass. Sen. Poulsen for the committee.

Sen. POULSEN: Our bonding is purely on a town basis, this way it is state bonding towns on a state system of sewerage, it is a little bit new and this is the procedure that the state treasurer wants to follow in it.

Adopted. Ordered to third reading.

HB 1124, relative to replacing the governor's committee on

employment of the handicapped with the governor's commission for the handicapped. Ought to pass. Sen. Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the Senate HB 1124 really legalizes what the current governor's committee on the employment for the handicapped is doing. It sets up a governor's commission for the handicapped which will be authorized to perform all the functions that are now being carried on by the governor's committee and it will act as a clearing house and a coordinating agency for all aspects for handicapped services for the state. It will further act as a research and planning body and it requires no appropriation.

Adopted. Ordered to third reading.

HB 978, requiring that state owned property leased to private parties shall comply with local zoning ordinances. Ought to pass with amendment. Sen. Hancock for the committee.

Sen. HANCOCK: In effect what it says is that the provisions of HB 978 shall not reply to the New Hampshire State Port Authority. The bill requires that state-owned property shall adhere to local zoning ordinances. As it is now the state does not have to adhere. This has been a problem in many communities where there is state-owned property for many, many years. The city of Concord has had a good relation with the state in this matter, however it has been contentious from time to time and we are desirous of the passing of this piece of legislation. That is my report Mr. Chairman from the committee. If I may I would like to speak on the amendment and recommend that the amendment be defeated. It is my belief that there should be no exception to the provision of the bill and that indeed the Port Authority should adhere to the city regulations in Portsmouth. Now I think that the Port Authority has a concern which need not exist because at the present time, the condition that is in question there is a non-conforming use. It would require the city of Portsmouth to do two things, it would require them to change their zoning ordinance, it would also require that they eliminate non-conforming use which would be very difficult to do. My recommendation is that you, the committee rec-

ommendation is to pass HB 978 as amended. My recommendation is that we pass 978 and defeat the amendment.

Sen. FOLEY: Mr. President, I also rise in opposition to the amendment that has been asked. The Port Authority does differ from most of the other entities who lease and have concessions on state-owned buildings or within the state parks. None of these others do violate any local zoning ordinances. However the Port Authority does. The new contract for the Clark Company is to be renewed on July 1. It is essential that they understand that when they have the lease they are getting the lease as a stevedoring company and not as a resting place for mountains and mountains of junk cars piled high waiting for trucks to take them away, according to the contract of this Clark Company. The state doesn't get any percentage out of any of the work that is done on the junk cars. They are not transported in or out by ships and only according to their contract, anything that is done by shipping is taxed by the state. In fact Mr. President, in the last eighteen months there has been only one ship that has come into the Port Authority. The minimum amount of money that the Clark Company must give to the state is \$66,000. That is the minimum and all they have been giving and so obviously because there has been only one ship in almost two years the fact is the only money that the Clark Company is making is out of the junk cars. I've left a couple of pictures of the cars on each of your desks to show you that this is the entrance to the city of Portsmouth by way of the new bridge that has been built. This is the first thing that people see when they come to our city. We have some beautiful restaurants that have been built along the waterfront and if you look out of the picture windows of some of the restaurants you see mounds and mounds of junk cars which are obviously isn't the best thing in the world. It is also interesting to note that at the time the Clark Company did get the contract with the state of New Hampshire, there was only one other outfit that was vying for the contract and that was a local concern. The local concern had one big thing for business and that was salt piles and when the consulting company decided on the Clark Company it was because if all we were going to have were additional piles of salt and perhaps, and it says right in the consulting firm's report, junk, this would not bode well for the city of Portsmouth. They would rather give it to a worldwide concern such as the



Clark Company which would have a tremendous shipping influence on our area. This certainly has not happened. The city of Portsmouth is frustrated and if this amendment will go through it will just prevent us from cleaning up this area. Obviously the Clark Company has a renewal on their lease on July 1. Obviously this is what they will be doing and we just hope that they understand that they are in there for shipping, stevedoring, for using the addition—we are putting in millions of dollars to increase the amount of work that can be done on the pier and it just seems as though all they're doing, no matter what we do, is putting in these piles of junk. So I urge you to defeat the amendment and pass the bill as it was presented by the house and it was brought in by the unanimous decision of the Portsmouth Delegation in fact all of the Seacoast area delegation.

Sen. McLAUGHLIN: Did you say the lease runs out next July?

Sen. FOLEY: The contract is to be renewed, it doesn't run out, according to that contract, for 20 years they have the contract, but it will be signed again on July 1st. I feel that they should know when they sign the contract that there are just piles that stay there for a whole year, they should know that this should not happen.

Sen. McLAUGHLIN: I agree with the pile and so forth, but if there is a contract in agreement for 20 years and it is not spelled out in that contract then they have a lease for a certain amount of money, is it realistic to ask them to change their thoughts on the matter at this time.

Sen. FOLEY: Every five years it can be renewed and new additions can be put in and we would hope that we know on this July 1st. I am sure that Senator Trowbridge will agree with me that this is the way that the contract reads, they automatically get a renewal but changes can be made in the contract.

Sen. TROWBRIDGE: I would just like to follow up with what Senator Foley says, that it would not be unfair in my mind to Clark, because Clark has the option to renew. If he doesn't want to renew then he doesn't have to so if this thing were to go through and he says under those circumstances, I don't want to go on he can make that decision. Clark has no real investment down there. We have built everything. We have put all the money in all he has done is put his operational people in and made the \$66,000. It started at \$40,000

and it has worked up. You shouldn't do this on the basis that it is a hardship to the Clark Company and that they are getting screwed, no way. If anything, the action has been the other way.

Sen. Brown moved that HB 978 be laid on the table.

Division vote: 6 Senators voted yea: 12 Senators voted nay.

Motion failed.

Amendment failed. Ordered to third reading.

(Sen. Brown recorded in opposition.)

HB 1086, changing the name of the New Hampshire Home for the elderly to the Glencliff home for the elderly and transferring the Glencliff home for the elderly from the division of public health to the division of mental health. Without Recommendation. Sen. Preston for the Committee.

Sen. PRESTON: This bill changes the name of the home for the elderly to the Glencliff Home for the Elderly and transfers the Glencliff Home for the Elderly from the Division of Public Health to the Division of Mental Health. There was discussion about making this a Mental Health Center for the north country but it was felt that this bill should not concern itself with this as there was no funding and Glencliff presently does not have the staff that the New Hampshire hospital has to care for the psychiatric problems. Senator Downing has an amendment to offer to this bill concerning the Salem-Haven Center. This amendment has been approved as germane by the Senate President however members of our committee felt that the amendment should be voted on separately after the committee report.

Sen. DOWNING: Mr. President the amendment is in the possession of the Senate now. This merely clarifies the tax exempt status of Salem-Haven which is a nonprofit nursing home. It is nonsectarian and it is a corporation that was initiated by the United Methodist Church of Salem and supported by all of the churches to provide a hundred bed nursing home. Ground was broken on Geramony Drive and it will be opening in 1978 if things go along as they should. They have arranged for the funding, they have arranged for the federal money and it just a matter now that they have to substantiate their tax exempt status before the federal government will give it the final okay. Everything has been done

up to that point and that's what the amendment is before you. As Senator Preston did mention I did check with the Senate President, the Committee Chairman, Senator Monier relative to it, also the Speaker of the House and they felt that the amendment was germane and so forth and it should be offered. I would appreciate your support of this.

Sen. SMITH: Senator I don't really have objection to this and this is the Salem matter and so forth, but I am just curious to know is this a rather unique home and different in its structure than other nonprofit homes?

Sen. DOWNING: Not that I know of Senator, it is a non-profit, nonsectarian nursing home. Of course we have no nursing home in Salem and it is a very large community as you know.

Sen. SMITH: Will the home be limited to residents of Salem?

Sen. DOWN: No, not to my knowledge.

Sen. SMITH: Would you anticipate if this passes that other homes such as the one here in Concord over on the Heights, the Havenwood and others will be coming in for this same exemption or do they already have it?

Sen. DOWNING: I don't know how to answer your question Senator, I yield to Senator Provost.

Sen. PROVOST: There is one in Laconia, in Manchester.

Sen. BRADLEY: Senator Downing why isn't this property already exempt and why aren't they properly protected under the existing tax exempt law?

Sen. DOWNING: They just haven't done the things they probably should have done up until this point. This is their first venture and it is something that now they are down the road, they have made their applications for federal money and the loan from the bank, they have a \$2,000,000 loan forthcoming from the State Street Bank and Trust in Boston and the federal participation in this not knowing which came first, the chicken or the egg, I guess, that would have been a matter for their attorneys to advise them on and now comes the point where the federal government says, you know, your tax exempt status has to be clarified and rather than make the usual applications it is just going to put the project off, they have chosen this route to do it with. I think the legislature has to recognize all the tax exempt places anyway for status.

Sen. BRADLEY: Do I understand that this property

would be tax exempt anyway but the problem is there hasn't yet been a determination?

Sen. DOWNING: Yes.

Sen. BRADLEY: Senator would you object to a further amendment to take care of a somewhat germane situation in my area?

Sen. DOWNING: I have no objection at all Senator.

Sen. Preston moved to substitute the words "ought to pass" for the words "without recommendation."

Adopted.

Sen. Downing moved an amendment to HB 1086.

### Amendment to HB 1086

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

changing the name of the New Hampshire home for the elderly to the Glenclyff home for the elderly; and transferring the Glenclyff home for the elderly from the division of public health to the division of mental health and relative to tax exemption for Salemhaven, Inc., a community nursing home project for the needy.

Amend the bill by striking out section 7 and inserting in place thereof the following:

7 Tax Exemption. Amend RSA 72 by inserting after section 23-e the following new section:

72:23-f Salemhaven, Inc. The real estate and personal property of Salemhaven, Inc., a nonprofit New Hampshire corporation occupied and used by said Salemhaven, Inc. to provide community health care facilities for persons in need of the same in the town of Salem and surrounding areas, pursuant to the rules and regulations of the United States Department of Housing and Urban Development, United States Department of Health, Education and Welfare, and the state of New Hampshire department of health and welfare, if none of the income or profits of the health care facility is used for any purpose other than the purpose for which the health care facility is established, shall be exempt from taxation. On or



before April 15 of each year, the owner of the health care facility shall file a list of all real estate and personal property owned by it on which exemption from taxation is claimed, and setting forth by affidavit the fact that Salemhaven, Inc. continues to be engaged in the provision of nonprofit health care services and facilities on said premises, upon a form prescribed and provided by the board of taxation, with the selectmen or assessors of the place where such real estate and personal property are taxable. A copy of such list and affidavit shall, at the same time, be filed with the board of taxation, which shall be the public record. If Salemhaven, Inc. shall wilfully neglect or refuse to file such list and affidavit upon request therefor, the selectmen may deny the exemption.

8 Effective Date.

I. Sections 1 through 6 of this act shall take effect July 1, 1977.

II. Section 7 of this act shall take effect upon its passage.

Amendment adopted.

Sen. Bradley moved that HB 1086 be laid on the table.

Adopted.

HB 513, creating an office of youth services and an advisory commission on youth and making an appropriation therefor. Interim Study. Sen. Hancock for the committee.

Sen. Hancock moved that HB 513 be laid on the table.

Adopted.

## INTRODUCTION OF GUESTS

Sen. Smith in the chair.

HB 1016, establishing procedures for the periodic termination, review and renewal of state agencies and programs. Interim Study by the committee on Executive Departments. Sen. Hancock for the committee.

Sen. Hancock moved that HB 1016 be laid on the table.

Adopted.

**Special Order 2:45 p.m.**

HB 986, requiring public utilities' rates to be based on a current level of service.

Sen. FENNELLY: This bill is so heavy that I am going to have to take off my jacket. What this bill does for the consumers of the state is to restrict the utilities to charge construction while in progress. For years since the Public Service Company was established, the way it used to work, pertaining to the cost of the consumer, when a plant went on-line, this cost was passed on to the consumer of the state. Being a public company, this is the way that it is. But the basic reality as to why this bill is here is that, which was drafted in January by Mr. Chambers, with no consideration that the public service company might want to come into the PUC and ask for CWIP. Now what we are talking about if this bill is not passed it might be the straw that will surely destroy the camel because of the cost to the consumers if the Public Service Company goes before the PUC and requests this additional funding just for openers, it will cost the consumer every man, woman and child that has a meter in their house, \$3.00. Now public service who opposes HB 986, the testimony in committee, was that if it isn't paid now it must be paid somewhere later on down the line at a cost of interest of \$500,000,000. What public service does not tell us is this, the life expectancy of the plant which will be about 70 years and by that time in 25 years the population in New Hampshire should increase drastically. Once that population explosion, which we see in the southern tier, it is happening right now, the cost of this plant will be over a greater amount of people which will reduce the cost to the consumer. Now the basic fact and this is very important is number 1, what the public service company does not tell you is that 50 or 51% of this power generated from this nuclear power plant will be to other states. What does this mean? It means that the consumers in Massachusetts and Connecticut and Maine and Vermont will not have to bear the cost of this plant. But every person in the state of New Hampshire that has a meter will. Now basically, generally, the management of any corporation makes frequent investment decisions concerning new business ventures. The Public Service Company of New Hampshire has decided that one of their new ventures will be

the Seabrook nuclear plant. Funding for new projects known as financing for capital budget projects, traditionally comes from several sources. The stock market via either common or preferred stock, the bond market via the insurance company debt instrument or financial institution via interest bearing loans. The cost to the company to obtain the necessary funding is a function of the amount of risk in the project and the projects expected rate of return. Whichever funding vehicle or combination of vehicles, public service has used it strictly as a management decision. The weight of both the decision to invest in the first place and the decision to seek financing in the second place, must be borne by the public service stockholders or for that matter, any other company stockholders. All of whom have not only invested in the company but in management's ability to undertake projects with minimal risk and maximum return. In a free market society that individual's decision to invest bears varying degrees of risk. It is highly appropriate for a company to attempt to shift the burden of that responsibility and that risk from itself to the stockholder's to the consumers as public service has suggested in the case of the Seabrooke construction cost. An attempt added current, nonfunctional expenses to existing consumer rate bases to allow this transfer of company costs to consumer would be a complete reverse of the free enterprise system to allow public service to receive continuing funding where their capital projects from reluctant constituents. What I am saying here is if this bill is not passed and public service gets the approval of the PUC which I hope they never will, can charge construction while in progress, the rate as they go on immediately and might reach they say a penny a kilowatt. If they are telling us that it is going to be \$3.00 you can be assured it is going to cost the consumer \$5.00 per month. I have been in the Senate for four years and I have heard time and time again about the poor taxpayer, the poor working man and so forth. And I have heard every Senator talk about the poor fellow. Well here is an opportunity for this Senate to stand and be counted on a very important issue in this state. The consumers cannot stand the cost of this construction either in the Seacoast or in Berlin New Hampshire. And it is our telephones that are going to be ringing and not the public service if HB 986 is not approved by this Senate. I urge everybody's support of the committee report.

Sen. BOSSIE: Senator is it not true that at the hearings that we had, and we had two of them, that we heard no other utility plant has ever been built in the state of New Hampshire with CWIP?

Sen. FENNELLY: That is correct, Mr. John Pillsbury of New England Power testified before the committee and urged the passage of this bill. The way that the public service proposes in their proposition to this bill, Senator Bossie, almost insures that they will ask for CWIP. Mr. Pillsbury who has been in that industry for quite a long time and has great knowledge of it, urged the committee to support the bill.

Sen. BOSSIE: Is it not true that the Federal Power Commission has ruled that CWIP will not be allowed for wholesale customers except for coal conversion and pollution scrubbers?

Sen. FENNELLY: That is correct.

Sen. BOSSIE: Senator could you tell the Senate just how many states permit CWIP?

Sen. FENNELLY: Offhand I think it is 3 or 4, I can't remember Senator Bossie but I would like to say this we do need new sources of energy and maybe Seabrook is the right way to go and maybe it isn't the right way to go. I am not a nuclear engineer but to put 2½ billion dollars on the consumer immediately, they say it won't come, but it is going to come. So basically I say it for the consumers of this state, the 800,000 people. It is through fear, I have heard that oh if one diesel comes off the line the whole state is going to go out of power. Here is what they work on gentlemen, nothing more than that and I urge you to support this bill.

Sen. Rock moved that HB 986 be indefinitely postponed.

Sen. ROCK: Mr. President I have spoken on the telephone to many constituents who have called me regarding this, there have been calls pro and con. I am amazed at the number of people who are in support of HB 986 who are totally unfamiliar with the concept of the bill, who are unaware of what is contained in the bill, but more importantly totally ignorance of the regulatory process that this legislature has established through the arm of its operation, the Public Utilities Commission. Now I know that many of the senators know, that I have stood on this floor and I have not been always praiseworthy of Public Service Company of



New Hampshire and I am not going to stand here today and ring the praises of Public Service Company but I am going to try and tell you a few facts that I think you ought to know. I'll try to do it on a non-emotional basis and I'll try to do it without distorting the facts and I'll try to do it so that you will understand that it is not a question of whether the construction costs of the Public Service Company at Seabrook will be passed onto the consumers. There is not one single word in this bill that tells you that the construction costs of the Seabrook nuclear plant will not be passed onto the consumers. Ultimately the whole cost is going to be included in your rates should the plant be completed. I would like to read you a letter. The letter is from Amherst, New Hampshire which is in my district, it is dated May 16, 1977. Dear Senator Rock: As a retired business couple and concerned citizens we ask you to do everything to defeat HB 986. The compounding of interest caused by this bill would cost excessive millions of dollars in the long-term. Thank you for your endeavors. Helen C. Wiggin and Walter D. Wiggin, Old Milford Road, Amherst. Dear Senator Rock: I have talked with 20 citizens in Amherst. All either now or in the past, with responsible jobs in industry, we believe HB 986 will be a great financial detriment to us in the long run. E. Daniel Johnson, Middle Street, Amherst. Now the issue in 986 is not whether or not electric customers, consumers, should pay the interest on borrowed money to build power plants during the construction period rather than pay the interest and more after the plant is built. It is my strong feeling that that issue would be one that would be better regulated than legislated. That's why I moved that this bill be indefinitely postponed. The postponement of 986 does not mean the construction work in process would be used on a wholesale basis by all utilities. That is foolishness. It means and I think this is the important thing that we should be considering, that if this is indefinitely postponed the decision to include construction work in process will be made on a case by case basis by the public utilities commission, the agency that this legislature has set up to regulate utility matters. The regulatory process was established so that a complex and a very, very technical issue such as construction work in progress, could be heard in an adjudicatory setting involving expert witnesses testifying under oath. Now we have a great immunity here, we can stand on the floor and say anything.

You have an immunity to say just about anything you want. But should this issue come before the commission and witnesses are under oath there is a little different air and aspect to that sort of thing. I think if this issue is not handled properly that the future energy supply of New Hampshire is going to be in jeopardy. I'd like to question the proponents of 986 who say to us that if the bill is passed it only maintains the status quo and since construction work in process has never been needed before we don't really need it now. Well then I ask the question, must we be reminded that we are in extraordinary times. Times that in many respects are going to require actions and procedures that we have not engaged in before. If you think that we don't have a severe energy crisis, if you think that we are not living under conditions and situations that are much different than a few years ago, then I just harken you back to the words of President Jimmy Carter and what he told you about the severe energy shortages that we face. I frankly am sick and tired of paying Arab rip-off prices for oil that generate electricity and the only other source in the immediate future that is available to me, my understanding, would be nuclear power. Let me tell you, you can't build a power plant in three years like you could when they built the Bow plant here in New Hampshire. It now takes 10 to 12 years and some electric companies are finding it necessary to build power plants with costs that are twice the total assets of the company. Think of that. Build a power plant that is twice the total assets of the company, not just a fraction of the company as it was in the 60's. Today's conditions are requiring companies to pay interest on 10 times the amount of money that was involved in power plant construction in the 60's. Paying interest, paying the interest over three times as long a period as they did in the 60's. The issue is the companies just don't have that kind of cash to pay that kind of interest for those periods of time without getting the money from the customers. Remember the customers will eventually pay all of the costs of construction and they will eventually pay all of the costs of the interest. There is no question about it. There is no other place for the money to come from but from the customers of the utility and that construction that is on-going. What are we saying with this bill? We are saying that if you pass 986 it will be 10 years, 8 years, at best, that the company will have to continue to pay the interest on the money, and at the end of that

period of time they will load on immediately to the customers all of the costs of the interest and all of the costs of construction and you're going to be paying millions of dollars a year more in that money that they borrowed and the interest that they paid on it than should you let this regulatory process follow through and should the commission allow them to charge for construction work in progress, pay a much less amount of it now. Whether you pay it now at a lower rate or whether you pay it 8 years from now at a higher rate, you're going to pay the interest. Some will say and I have heard this, let the investors pay. Remember we are talking about interest and I ask you, would you invest your money in a savings bank if the bank told you that you were not going to get any interest or that you would have to pay yourself your own interest. I don't think you would. I began by saying I have stood before you on many occasions and I have been critical of public service company. You know that. But I do feel an obligation to my family and my constituents that we must do all we can to see that we insulate and protect ourselves from the severe energy shortages that are just down the road. These are critical times, these are unusual times. Carefully conceived and carefully applied methodology is required if we are going to solve this dilemma. And at the same time achieve the other social goals that we seek. Passing legislation that will only maintain a status quo can be dangerous, it can be short-sighted, and it can be the wrong approach to a severe problem. I strongly urge you to indefinitely postpone 986 and I will conclude with a sentence that came from testimony by Robert Harrison the Vice President of Public Service. "If HB 986 passes, there will be assuredly be severe shortages of electricity in New Hampshire beginning in the 1980's and continuing indefinitely thereafter. The company will not be able to construct any base load additions to generating capacity including the Seabrook plant."

Sen. FENNELLY: Senator Rock at the present time you have a very good bill in the house called SB 50 which is going to reconstruct the public PUC. In your opinion, doing the amount of work that you have done on that particular bill, could you tell me the reason of why we are going to add people on to the PUC? It is my understanding that at the present time something must be done because we have sort of a weak PUC. Could you tell me at the present time, if this



bill did not pass and Public Service or any utility went to the PUC and asked for CWIP would they or would they not approve it? This is a hypothetical question, but I am asking you, you must have great interest in it because of your SB 50.

Sen. ROCK: I can't prejudge what the commission will do, I have no way of knowing how they would answer the question. As to SB 50 I was extremely disturbed to hear that the House has amended the bill so that it would take effect on the day that we annex Martha's Vineyard.

Sen. BOSSIE: To put this thing in true perspective, we have to realize that we are talking about is a monopoly, a state-controlled utility in which they presently and are in the process of building a multi-billion dollar plant. Tell me Senator Rock, how can you relate this to your private business sort of thing, say with a radio station, if you wanted to build a radio tower that cost 3 million dollars and you say gee, I don't have the money, I think I will go through some agency to permit me to precharge my customers. How can we justify this in the control segment but in our private sector this would be a farce if we let anybody in the private sector do this sort of thing by precharging for something that may or may not come into being?

Sen. ROCK: I think you understand Senator that construction works in progress charges that we are talking about are the costs of the interest on the money borrowed as applied to the present customers of the utility and that cost because of the delays by people who have stood in the way and tried every conceivable trick to delay, stop, thwart, cause difficulties to public service companies of New Hampshire, have caused the price of that facility because it is enmeshed in the skyrocketing inflationary period in which we live, to just go out of sight. That doesn't diminish the need for the cost of electricity, we have got to have power. We have to have a source of power and available power to lay our homes, heat our homes, to cook our food, to do all the things that we are so dependant on electricity, well we have to have a source of supply, I think, it can't be the undependable source of the Arab nations. We just cannot continue to let ourselves be a fourth rate beggar nation to see our balance of payments go out of whack to the point where you and I are paying \$4.00 for a pound of coffee or more, because of the Arab oil situation. The answer is two-fold. The first answer is you con-



struct a plant that gives you electricity from some other method and this Senate the other day passed a clean air act that would prevent them from turning that plant into a coal generating plant. Cause you can't get the kind of sulphur that Senator Hancock wants you to buy, the kind of coal that is sold for free, to turn it into a coal plant. Now we could put a big windmill out there to try to get it from the sun and we will 50 years from now, but you are not going to get it now.

Sen. BOSSIE: The fact remains, that say in the future, if we devise some sort of a windmill mechanism that cost \$500 million dollars to set up you would prefer that whoever has the monopoly on the windmills, to give them prepay their interest too.

Sen. ROCK: Senator I don't see how we can look at today's situation, in light of what has gone by in the past, and to get back to your previous question, how do I relate this to my business and putting up a radio tower versus their building a power plant? Well you have answered your own question. Number one, we in our wisdom decide to make those companies monopolies. This is your monopoly, you generate electricity and the only way that you can sell it is under our guidance and control. The legislature itself used to do those things and the Senate established a commission because we got too busy doing other things. So we are not quite the same as private enterprise, we regulate, we control, we give the yes, we give the no, through the adjudicatory process. This is not like private industry.

Sen. BOSSIE: You realize that this applies to all utilities and not just to the Public Service Company? Everybody. Now did you hear anything at that hearing and I was there during just about the entire amount of the six hours and I don't recall exactly when you were in and out, but did you hear anything that said that this was just anti-Seabrook.

Sen. ROCK: I didn't stay for the hearing beyond my own testimony, I couldn't.

Sen. BOSSIE: If we kill this bill as you would have us do, isn't this a green light to every monopoly in this state, every public utility to say, okay boys, we got it now. We have CWIP, we can finance anything we want because now the door is open and if it is a \$500 million dollar this or \$500 million dollar that for the telephone company, or gas company or anybody else, this is opening the door for it?

Sen. ROCK: I would answer you in the words of my favo-

rite high school chemistry teacher, when he would ask me a question and I would answer it and he would say, Rock you are one hundred percent, absolutely wrong. No that is not the case. Because we have the regulatory process down on Pleasant Street. They can line up 15 deep at the door, trying to get CWIP but they don't get it until it is granted. That is the way the deal is run now and I think to change that now is going to be a dangerous and very difficult and very hazardous process and I sure don't want to answer my phone when the lights go out and say, Rock you voted for construction work in progress and this week we are going to have a brown-out.

Sen. FENNELLY: After all the discussion Senator Rock I was wondering if you could tell me of the real problem that is happening whether it is Seabrook or anywhere else. I agree that we do need additional power into the 80's. But is this the right way to go? The question I have is the fairness of a 2 billion, 600 million dollar plant being built say at Seabrook. Over 50% of that power will go to New Jersey, Connecticut and Massachusetts and those people in those states will be receiving that power, will not pay the 1 billion, 300 million dollars for CWIP. The people of the state of New Hampshire, the 400,000 home owners at a penny a kilowatt hour will. Do you see something unfair in this?

Sen. ROCK: My chemistry teacher Senator Fennelly would tell you you are absolutely, one hundred percent incorrect and let me tell you why.

Sen. FENNELLY: Tell me why.

Sen. ROCK: Because there are other investors in the Seabrook plant. In that you are correct. That portion of the plant in which they are investors, if they do not have CWIP they will pay the inflated cost of the interest which is going to be millions of dollars more when they go on-line. They'll be paying higher, and much higher electric bills over 20 years whereas you will not be because that cost and that portion of the plant that is charged to Maine or Vermont, it won't be Maine, they have their own and it is working fine and my fuel adjustment charge there is 32c and it is 1.54 down here—they are going to be paying it like that when the plant is finished. You're going to pay less by over a million dollars a year because you have been sliding into it, so you're wrong when you say they're not going to pay it. They're going to pay more, you're going to pay less.

Sen. FENNELLY: I am talking about immediate payment, who will be paying the \$2 billion, 600 million, the people in New Jersey or the people in New Hampshire?

Sen. ROCK: Senator the immediate problem is that we need power in New Hampshire and there is nothing that says the company in New Jersey or the company in Maine or the company in New York has to sell you in New Hampshire power. If they don't have it they don't have to sell it to you. And we are now in a position where we can't depend on these outside sources because they're looking to us. So the issue is are you going to have power or not and if Seabrook goes on-line you will have power. All the power you need and you will have it in New Hampshire first.

Sen. FENNELLY: I agree with you. If CWIP is approved by the PUC, truthfully, why do we need a Public Service Company. If the moneylenders in New York, Chicago and California, known that a state, why not let the state take over the public utility? We have an agency much bigger than the Public Service Company, the Highway department. Why wouldn't the state be able to take, buy out the stockholders for that matter. When the moneylenders know that the consumers of any state are going to pick up the tab, we are going to get all the money that we want, so will you agree with me if that happens, why do we need public service.

Sen. ROCK: I would have to answer in two ways Senator. First you wanted to put a bill in to have the state of New Hampshire buy the Public Service Company. I'd look at it, I'd hope that we would run it a little more efficiently then we run some of our other departments, because your fuel adjustment charge wouldn't be a \$1.54 it would be \$7.54 but secondly and more seriously in a positive note, we here have anticipated, you said it, that they are going to allow all of the construction work in progress, half of the construction, we don't know what the PUC is going to allow. But if you pass this that is what they can allow and that is how much power you will have because you won't ever see that plant built.

Sen. FENNELLY: As you know Senator Rock and I know the weak PUC that we have at the present time, I am sure somebody is going to pay.

Sen. ROCK: Well we also have a consumer advocate who will be in there fighting for us Senator.

Sen. BRADLEY: Senator Rock as I understand it, if this construction work in progress is allowed, it can't be passed

onto people like in my area that buy from Granite State who in turn buys from public service. Is that correct?

Sen. ROCK: I think that there are federal power regulations that would preclude that, yes.

Sen. BRADLEY: Now then you said something in answer to Senator Fennelly about that those people will pay more in the long run. Can you spell that out, how that works.

Sen. ROCK: Yes. I'll try to demonstrate it in simple economics. If it costs \$10.00 to build the plant and half of the ten dollars is being supplied by customers that are buying purchased power from public service and half of the customers are getting it direct, then if construction work in progress is allowed and the commission allows it and all the other things we have talked about, then the half that are buying direct from public service would begin now to pay part of the interest costs that were loaded onto the bill and I understand that Senator Fennelly who is the expert on gamma rays, it is a penny a kilowatt, I don't know that, they would begin paying it now and that would as you understand it from economics, lessen the cost — the longer that you have the money there and paying interest on it the bigger the interest bill at the end of the line. At the end of 8 years your interest bill is going to be this big for the people who are buying purchased power but is only going to be this big for the people who are paying it. So their scale is going to be a more gentle slope where the others are going to be !!, like that. If they want the power.

Sen. BRADLEY: That means that there will actually be different rates which will get charged now and in the future?

Sen. ROCK: That's right. The Federal Power Commission allows that, allows them to charge for that money that they had to borrow and the interest rate that they had to pay on it and all the other things that go along with it to those people who are buying purchased power from the company that is selling it and if they have already charged to us as they would be allowed to do under this then you would pay it over a longer period of time but at the end you would pay a lesser amount.

Sen. BRADLEY: If there is this increasing interest business only if you pay for the construction by borrowing. If you pay for it by stock issue.

Sen. ROCK: No, you would not be paying dividends and you probably wouldn't attract any stockholders either.



Sen. BRADLEY: But if you did it through let's just take common stock, the common stock holders would be entitled to a return would they not.

Sen. ROCK: The company as I understand the regulations and rules of the public utilities commission, you are entitled to earn at a certain rate, there is no guarantee that you will earn at that rate. There is no guarantee built into the law that an owner of common stock in a utility will get a rate of return 6, 7 8, 9%. The supreme court has ruled that they are entitled to earn at that rate if they can.

Sen. BRADLEY: Do you say categorically that if this bill passes that Seabrook won't be built?

Sen. ROCK: Let me quote to you again Senator from Mr. Robert Harrison, Vice President and Treasurer. If HB 986 as written passes, there will assuredly be severe shortages of electricity in New Hampshire beginning in the early 1980's and continuing indefinitely thereafter. The company will not be able to construct any base load additions to generating capacity including the Seabrook plant. Now will we be buying it from outside? I don't know, will we have another source by 1980? I don't know. But I am looking at the words that were given in testimony on this bill and I have just quoted them to you and that scares me.

Sen. BRADLEY: As I understand it no construction in the past has been passed along as CWIP.

Sen. ROCK: We have never seen a power plant of the magnitude of Seabrook anywhere in New England.

Sen. BRADLEY: What I can't quite fathom, is how we can get to this position without public service telling us that they can't build a plant which has been around for so long and which is already been in progress and perhaps should have been completed, and at this date they are coming and telling us that they have got to get a law on the books or, I didn't ask this right. They have got to get CWIP or they can't build Seabrook. When under prior law they had no guarantee that they would get and in the past they never got it.

Sen. ROCK: Senator be reasonable. You know and I know that when that company started its project at Seabrook, there was no crystal ball and no expert and no one on the face of this earth who could have told them what the cost of the plant is to be projected on today's figures or what the month by month delay this is causing. As I understand it, every month that goes by the cost of Seabrook goes up \$15 million

dollars. The whole thing in Bow cost \$30, 40 million dollars to build it. You're talking billions of dollars. They have never faced this before and this isn't going to be unusual, you're going to see this in other states, you're going to see this problem of CWIP in facing many communities in many states as the cost of generating electricity goes up.

Sen. BOSSIE: Senator let us use a hypothetical—if you should kill this bill how would the little man from my district say owns a button factory, operates it the next few years and then he moves down to Georgia. How would he benefit by prepaying the interest on something that he would never get the use of. Don't you think that we should have a provision that anyone who moves out should be able to be reimbursed for their advance payments and so forth?

Sen. ROCK: Well we don't do that now, we saw in the case of the overcharges in the coal that it would be an impossibility to trace people back. I think if you were talking about 100 dollars a month extra that we would all be paying then I think you are talking about a situation that would be impossible to follow up on and I don't know how the regulatory agency would do it. I am sure however that there might be a case brought against the company or through the PUC to try to force that issue and you as a lawyer could certainly bring that case to force payments and maybe you would want to do that.

Sen. HEALY: Senator Fennelly I was interested in a couple of statements that you made in your discussion, one of them was and I didn't get the time that you stated, it was relative to the life of this plant. Would you refresh me on what that time was.

Sen. FENNELLY: Well basically the way the testimony in committee, was that when a power plant not necessarily Seabrook, is being built by public service, the time when the plant goes on the line prior to the actual construction of the plant, is that the consumers will be charged x-amount of money. The difference between this as Senator Rock said, is probably for Seabrook, but the question now is that while the construction is going on, let us say 2½ years to build, that the construction is going to go on, your people in Deerfield, hoping that the first month that they get CWIP will pay \$3.00 more per family the minute that the PUC gives the Public Service Company that permission. And that is how it basically works. When we put the plant on-line it is the life of the

plant. That is going to be charged but with CWIP if it is approved by the PUC it is immediate to the consumer.

Sen. HEALY: Senator you evaded my question entirely.

Sen. FENNELLY: I didn't evade anything.

Sen. HEALY: I asked you. . .

Sen. FENNELLY: Now if New Jersey is short, they will go out to the rest of the nation nearby, try to get power, Con Edison in New York, as much as they can to New York City or New Jersey, this is the way that it has been done. But the point that I tried to bring out on the cost of CWIP even though the power is going to cost New Jersey a great amount of money later on and we will get the return, the immediate impact on the consumers of the state like myself, representing 35,000 people, 15,000 homes, every home in my district and in your district, Epping, Deerfield, will be charged \$3.00 per month. It is as simple as that.

Sen. HEALY: But you do admit that the basic rate that this power is going, is in the New England pool?

Sen. FENNELLY: That is correct.

Sen. BRADLEY: Senator, I accept what you say, but there is no guarantee, but when you go in and ask for a raise, to justify a raise, aren't the basics on which you get a raise determined on what a fair rate of return on the common stock is?

Sen. ROCK: On the investment.

Sen. BRADLEY: If Seabrook were financed by common stock, wouldn't it be possible to go before the PUC even with this bill to ask for a rate to be adjusted to provide a return on the common stock which was sold to finance Seabrook?

Sen. ROCK: I think I understand your question and if I do the answer I would give is if the bill passes and they cannot prove regulatory process to ask the public utilities commission to allow the cost of the interest to be charged as we discussed, then their pleadings the day that the plant goes on-line or prior to that, will be for a rate increase that will cover the cost of construction and the interest and the investment in base plant and the operational costs and it will be by supreme court mandate a rate fair and equitable return that they are entitled to earn, it doesn't mean that they are going to earn it but your question is proper and the answer would be yes.

Sen. BRADLEY: I'm not sure that you responded to it. What I am thinking of is if this bill passes, Public Service

decides to issue common stock to raise money on which to build the plant, next time they go in for a rate increase they are seeking to get a rate increase which will provide a fair rate of return. Now aren't they entitled to get a fair rate of return on that money that the common stock holders have put in?

Sen. ROCK: No the rate of return is not on the money of the stockholder, it is the base cost of the plant, cost of the base is what the rate of return is based on. You could pay \$50.00 a share for the stock and the book value of the stock might only be \$27.00 so they don't allow you to earn the rate of return on the \$50.00 that you paid but they might consider the book value of the plant. What is the book value, what is the cost of doing business, not of the price of the stock and I would add to that, if this bill passes, I sure wouldn't want to be the stockbroker out peddling public service stock cause he wouldn't sell any.

Sen. TROWBRIDGE: Mr. President, I agree with Senator Rock on a couple of things and I won't take much time but I hope you listen carefully. If anything he said, this is a time for cool heads, this is a time for being careful and not being emotional. This is a financial matter it is not a will-of-the-wisp, up or down of some on what you like, or what you don't like. If the motion to indefinitely postpone is lost, I will be offering an amendment which I think may help some of you get out of the dilemma of this problem. And I think that Senator Bradley was alluding to it, the problem, which is: if you don't pass this bill or any bill, you are then leaving this entire problem to the unknown of what will happen with the Public Utilities Commission. You have no legislative statement on this issue anywhere. You have only killed a bill which would have been a legislative statement saying don't add anything. I think it is important enough, we wouldn't be debating this law, if it weren't right for the legislature to make a statement on this issue. The issue is simple: if you take the cash flow projected for public service over the next 10 years, and I have talked to Mr. Harrison at length myself, you take a look at their cash flow system without being able to put any work-in-progress in, it is clear that there will be no work-in-progress and Senator Rock is saying exactly the right thing because no one in their right mind would lend them a cent. They would have a negative cash flow of some \$28 million dollars and who is going to lend more money to a



company that has a negative cash flow of \$28 million at the start of the lending period. No one. So I then said, hey if you go into Public Service and they say you can put all of the construction work-in-progress on right away, they gave me another schedule and their cash flow looked beautiful. All-right? But the trouble is that they loaded it on the entire next 8 years. Let's take Senator Bossie's example. Someone who is going to be here and plans to retire in 8 years and go to Florida. How right it is to load it all in the next 8 years and then those who are not going to be here over the life of the plant will have paid for this and gotten no benefit. In 1982 they begin to swing into action and they begin to make earnings and it goes into the base and they begin to get back on their normal base. Now, so we went through a lot of folderall and I won't go through all of it and I am not trying to speak to the amendment but there is a way to make this done, through the amendment process, so that Public Utilities Commission knows what the rules are, knows how much they can allow and that allowance is enough to keep a positive cash flow with Public Service Company not great, not immediate, not enormous, but enough so that they can borrow and keep going. I think that we have to be cool and say let's not kill the bill, let's not indefinitely postpone it, then when my amendment comes up you can vote on the amendment up or down, anyway you like but I do think you have to be careful and not just say it is all or nothing here. It is not all or nothing, very few things ever are. But I am going to vote against indefinite postponement to keep this issue so we can discuss it further.

Sen. JACOBSON: Senator why not offer the amendment at this moment?

Sen. TROWBRIDGE: Well, I had more or less made, I thought, see the thing had been laid on the table and I thought the indefinite postponement issue was already before the Senate, you had already debated it, so I didn't think it was proper at that time to interfere with that thing and I think that everybody has made up their mind as to where they're going to go indefinite postponement or not, if we had that one crunch issue where we decided that no we are not going to indefinitely postpone this thing, we are not going to do that, then we can go on and discuss other things. I think maybe it is just as good a procedure as going to the amendment and then having the amendment killed.

Sen. JACOBSON: Mr. President I substantially agree with Senator Trowbridge that the question is not relative to the motion but one of economics. We are really dealing with how we are going to handle the capitalization of interest factors and one method is of course is if we do have CWIP that the company would have to go out into the market and recover the capitalization of interest by in fact capitalizing it. The other method would be of course, to pay it out of the rate structure. I think it is important to bear in mind that oil companies also pay for their research and investment costs out of their revenues and returns and pay for the interest income factor out of their returns and everyone of us who buys a gallon of gas is paying for construction of sites for research all over this world because that is how it is done in the world of economics. Now it is true for example that the Gulf Oil Company or Mobile Oil, that they are multinational companies whereas we are talking about Public Service Company and I think Senator Fennelly has a very interesting point regarding the fact that possibly some people will receive a benefit who have not participated in the cost factor. But this is not an unusual kind of situation. However I think we ought to look to some sort of middle position and I am presuming that Senator Trowbridge is trying to find that middle position because I had a gentleman who called me last evening. He is a man in his sixties and I think he understood more clearly than some of us do. He said, look, I hope you vote for HB 986 because you know I am going to be dead in 20 years and I don't want to be paying the cost now. But that of course is one of the problems that we have in every economic effort. For some of us that are paying on gasoline costs as I have already alluded to, who are not going to be alive when 20 or 25 years from now, the research investment costs are going to come with actual oil that is coming forth with a product. So I really believe that we ought to find some kind of middle ground and I haven't seen or heard what Senator Trowbridge's amendments are but the real issue is one of economics. I don't think the issue of whether Seabrook is going to built or not is the real issue at the moment. I think it is a clear question of economics with regards to capitalization of public utilities.

Sen. BRADLEY: Senator Downing what I would like to pose is if we don't pass this bill and CWIP is allowed and we all begin paying for that plant right away, and the plant

doesn't get built because the final permit never comes aren't we all going to be paying for something which is worthless?

Sen. DOWNING: This is the problem Senator, you are saying if, this happens, and if that happens. If we address ourselves to everything that may happen we are going to be in a sorry state of affairs, we are never going to get out of here. There aren't enough hours in the day, or days in the year to address all the things that may happen. I think that the house made itself very clear that it will not tolerate this type of commission by the PUC. The PUC hasn't been given this type of permission in the past and there is no reason to expect that they are going to do it now and if they were to do such a thing now it is going to be based on the evidence as presented. You'll get involved with assessing that evidence just as myself and we see the red light go up then and we know that stuff is going to happen that we don't think is fair and we don't want to do it then we can come back in and do something about it then. When something is happening.

Sen. BRADLEY: Would you support something that said to the PUC that they couldn't approve CWIP until they had their final permit?

Sen. DOWNING: I would be inclined to support that Senator but I really feel that it is unnecessary.

Sen. Blaisdell moved the previous question.

Adopted.

Sen. Bradley requested a roll call. Seconded by Sen. Lamontagne.

The following Senators voted yea: Lamontagne, Poulsen, Gardner, Rock, McLaughlin, Healy, Sanborn, Provost, Brown and Downing.

The following Senators voted nay: Bradley, Bergeron, Jacobson, Saggiotes, Blaisdell, Trowbridge, Keeney, Hancock, Bossie, Fennelly, Preston, Foley.

10 yeas      12 nays

Motion failed.

Senator Trowbridge offered an amendment to HB 986.

Sen. TROWBRIDGE: On the top of this amendment is the bill as it started and on the back is a, it is better than the

regular amendment, it shows the changes. The top is the bill that came into the Senate, the bottom is my amendment. On the amendment on the back part, you can see the act says, limiting the extent to which Public Utility rates may be based on the cost of property under construction. Again this is a bill to tell the public utilities commission what it may or may not do and you can read as well as I can, the underlined portions showing what they can charge on CWIP but only to the limited extent permitted hereby. Except to that extent and at no time shall any rates or charges be based on any cost associated with construction work if said construction is in progress and not completed. During the period of construction, cost of construction work in progress including but not limited and it goes on, may be allowed, shall be included in the utilities rate base or be allowed as an expense for rate making purposes only to the extent permitted by the following sentence: Public Utilities may in its discretion (it still doesn't tell them they have to) include in the utilities rate base or allowed expense such portion of the construction provided that such portion shall not exceed 75% of the estimated cost of construction work in progress at a date 12 months following the end of the test period used in the determination of the proper rate and charges such estimated cost to be determined by the Public Utilities Commission based on reasonable estimates by the Public Utilities Commission. The reason that I have 75% is the cash flow projection that I have gone over with Mr. Harrison. If we put that in there in 1977, they would end up with a positive cash flow of \$6.8 million. It would go to \$12.5 million in 78, \$9.9 million in 79, \$4 million in 80, \$6.6 million in 81. Then they put the plant into construction, they begin to get the revenue from it and at that point it goes up to \$68 million as a positive cash flow. That is what will happen. Now if you don't do this you would have had a negative cash flow during the next 5 to 7 years. During which time they couldn't have borrowed and this seems to be the way that you get it down to a point which is reasonable and yet does not let the Public Utilities Commission simply do anything they want which is the thing that I feared more than anything. That we would have had no statement at all from the legislature. I am not about to say that this is the end of the line on this bill, that this is the only amendment that could be offered or that it is perfect. It could be that you could get by with 63%. I picked 75 because it



seemed to be the line that gave them enough margin to work on. Now I have dealt with figures all my life and unfortunately for reasons I can't tell you, they make sense to me. I can look at one of these things and it made no sense the way you were going, there was no question that this thing was going to not be built. I frankly have said many times to many people, that the reason Seabrook will not be built has nothing to do with the regulatory commission. It is the fact that it is much too big for Public Services equity base, it is 3 times its equity base and unlike Senator Jacobson's Mobil Oil, Mobil Oil's construction program may be something like 7% of their revenues whereas this thing is 3 times their revenue. So they are just hocked to the ears and if you want to make sure that nothing is built there, by all means don't allow them to add anything in and you will not have a Seabrook plant. I didn't want to let that happen without our at least being able to debate the issue and say to the house, we agree with you, we shouldn't just let this issue go by. This would probably go to a committee of conference and where it goes from there, who knows? But we, the House and Senate, would be working on the issue of how much and how CWIP is going to be allowed. I think that this amendment provides that opportunity.

Sen. ROCK: Well Senator I am delighted to see that you agree with me, that CWIP interest costs should be allowed and I think the only difference that we have now is the ratio to which it should be allowed. I haven't had the privilege of seeing your cash flow sheets Senator but would you as the expert that you are, on finances, give me your candid opinion of a cash flow of \$4 million for a company that is building a plant the size of Seabrook and whether you think that's an adequate projected cash flow to handle what could be a major problem such as retubing Bow which would cost \$3 million.

Sen. TROWBRIDGE: Well, the difference isn't really that much between 100% and 75%. For instance, take a year like 1979, under my thing they would end up with \$9.9 million in positive cash flow. Under 100% they would end up with \$13.3 million so that I am saying that you don't need \$13.3 million. I am saying something less than that but I could have brought it down to 50% and had them come out with a dollar. Well that wouldn't have done anything either. So your guess is as good as mine but I think from the standpoint of what

they are going to have to raise and these are projected on what they are going to have to raise, I think that is sufficient and I think they do too to tell you the truth.

Sen. ROCK: I notice in your amendment about 2/3's of the way down, you do have the word "may in its discretion include", so we are leaving leeway with the Commission. I wonder if you could tell me Senator, if you, putting yourself in the place of a commissioner, 8 years ago, when this idea of Public Service's plant first began to be an embryo, could have predicted or envisioned in your wildest imagination, dreamed that it would be costing what it is today and assuming your answer would be no, do you think that this kind of restrictionary, although not mandate, strong suggestion, is a proper one?

Sen. TROWBRIDGE: Well, yes, because at this point and I think that the Public Service Company would tell you this as well, that they can project pretty well now between now and 1983. Everything is in place, they know the size of the plant, they know the inflation factor, they know what they have to borrow, they know the delays that they have had, so that they probably put in their projections more than or safety factors, and unless something else happens, and something could happen—but that's not a very long period of time between now and 1982 so I don't think that we are in the uncertainty area that we were before. If they can't project it that well at this time then Mr. Harrison is not the good financial manager that he should be.

Sen. BLAISDELL: Senator Trowbridge, seeing as this amendment just came out and you have the cash flow sheet and you understand it much better than I do, will you give us a chance to see that cash flow sheet and would you have any objection if we tabled it and took it up later on today or tomorrow sometime?

Sen. TROWBRIDGE: I wouldn't mind but I don't think you are going to find much enlightenment from this sheet. I can tell you right now it has depreciation—I read you the two figures at the bottom. In doing this, these figures were supplied by Public Service Company and this amendment was written by Public Service so it is not as if I am sitting here trying to zing the Public Service Company. I am not. What I said to them was that there was no way that I could leave the situation without a legislative statement, that's all. That is what I have been saying so I do not think you are

going to find that this is something that you have to run back and ask Mr. Zimble about because he knows all about it.

Sen. BLAISDELL: Would you have any objection if I tabled it at this time?

Sen. TROWBRIDGE: Well I am just getting sick of tabling everything.

Sen. BLAISDELL: I withdraw the question.

Sen. BRADLEY: Senator Trowbridge, do you assume that there will be a committee of conference?

Sen. TROWBRIDGE: Obviously there will be a committee of conference and I think that that is really the proper place to have this resolved. Between the two bodies—I mean if we pass with amendment and send it back into the House the committee of conference will undoubtedly be set up and there will be more testimony. At least then you will have had the statement from the two houses—and they don't want to leave status quo. Now that I think is what I am really after not so much the detail.

Sen. BRADLEY: I find that last sentence a little tough to follow. Is the only difference between that and the status quo, the difference between 75% and 100%.

Sen. TROWBRIDGE: I can't vouch for that Senator Bradley. A lot of people want to see this amendment and I'm sorry, I have been buried down in Senate Finance and I haven't had a chance to even get out so here it is, we have made our statement sort of by doing it.

Sen. JACOBSON: One of the arguments that the Public Service Company had is that the overall cost of the plant if we eliminatd CWIP would be an extra \$250 million dollars therefore you would have an increased depreciation factor and that of course was also passed on to the consumer which we haven't really discussed. Did you get a projection on the depreciation factor difference there?

Sen. TROWBRIDGE: I don't have it on the depreciation factor, no. All I can say is that the depreciation factor is a non-cash item as you know and non-cash is not going to build the plant. Again, that depreciation factor would presumably be at least 25% higher. It is higher now but the issue is how much do they have to have in the rate base to keep a positive cash flow which is sufficient to entice the money markets in. That's the issue—the rest of it on the chart doesn't matter. That is the issue for them to go to the money market.

Sen. JACOBSON: I understand that that is the issue for them to go to the money market but it is an issue also to the consumer with respect to depreciation and one of their big arguments was that if they did not allow it the weight of depreciation would be that much higher and you know for example as a business man that you always include depreciation in your price.

Sen. TROWBRIDGE: Yes and no. I don't think that they are worried so much about depreciation on the rate base I think they are worried more about the interest charge being capitalized and they get back their depreciation fast when the plant starts up and that's when they load into the depreciation. How can you really depreciate something that hasn't really started.

Sen. Blaisdell moved the previous question.

Adopted.

Sen. Blaisdell requested a roll call. Seconded by Senator Bossie.

The following Senators voted yea: Bradley, Jacobson, Blaisdell, Trowbridge, Hancock, Bossie, Foley.

The following Senators voted nay: Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Rock, McLaughlin, Keeney, Healy, Sanborn, Provost, Brown, Fennelly, Downing, Preston.

7 yeas      15 nays

Amendment failed.

Sen. Rock moved that HB 986 be indefinitely postponed.

Sen. Bergeron moved the previous question.

Adopted.

Sen. Fennelly requested a roll call. Seconded by Sen. Downing.

The following Senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Jacobson, Saggiotes, Rock, McLaughlin, Healy, Sanborn, Provost, Brown, and Downing.

The following Senators voted nay: Bradley, Blaisdell, Trow-



bridge, Keeney, Hancock, Bossie, Fennelly, Preston, and Foley.

13 yeas      9 nays

Adopted.

## COMMITTEE REPORTS

HB 620, relative to contributions in the unemployment compensation law. Ought to pass with amendment. Sen. Bergeron for the committee.

### Amendment to HB 620

Amend the bill by striking out section 10 and inserting in place thereof the following:

10 Certain Employment Excluded. Amend RSA 282:1, H (4) by inserting after subparagraph (t) the following new subparagraph:

(u) Service performed by an employee of a camp licensed by the state under RSA 149:21, unless service is performed for an organization described in section 501(c)(3) and exempt under section 501(a) of the Internal Revenue Code.

11 Effective Date.

I. Section 10 of this act shall take effect April 1, 1977.

II. The remainder of this act shall take effect January 1, 1978.

Sen. BERGERON: This bill increases the wage base on which contributions are paid from \$4200 to \$6000 which is mandated by federal law. The committee was unanimous in its passage.

Amendment adopted. Ordered to third reading.

HB 869, clarifying the priority of claims against insolvent insurance companies. Ought to pass with amendment. Sen. Bergeron for the committee.

## Amendment to HB 869

Amend the title of the bill by striking out same and inserting in place thereof the following:

## AN ACT

clarifying the priority of claims against insolvent insurance companies and relative to an assistant insurance commissioner and director of examinations.

Amend the bill by striking out all after section 1 and inserting in place thereof the following:

2 New Positions. Amend RSA 400-A:6 by inserting after paragraph III the following new paragraphs:

III-a. There shall be an assistant commissioner of insurance who shall be appointed by the commissioner of insurance. He shall serve at the pleasure of the commissioner, during good behavior. When the offices of the commissioner and deputy commissioner are vacant, or when the commissioner or deputy commissioner is unable to perform his duties because of mental or physical disability, the assistant commissioner of insurance shall be acting commissioner. The assistant commissioner shall perform such duties and exercise such powers of the commissioner pursuant to RSA Title XXXVII as the commissioner from time to time may authorize.

III-b. There shall be a director of examinations who shall be appointed by the commissioner of insurance. He shall serve at the pleasure of the commissioner during good behavior. The director of examinations shall perform such duties and exercise such powers of the commissioner pursuant to RSA Title XXXVII as the commissioner from time to time may authorize.

3 Compensation and Expenses; New Positions. Amend RSA 400-A:8, I and II (supp) as inserted by 1971, 244:1 by striking out said paragraphs and inserting in place thereof the following:

I. COMPENSATION. The salary of the commissioner, deputy commissioner, assistant commissioner, director of examinations and assistants to the commissioner shall be as prescribed in RSA 94:1-4.

II. EXPENSES. The commissioner, deputy commissioner, assistant commissioner, director of examinations, and the assistants to the commissioner shall be allowed their traveling

expenses while engaged in the performance of their duties.

4 Insurance Department Staff. Amend RSA 400-A:10, II (supp) as inserted by 1971, 244:1 by striking out said paragraph and inserting in place thereof the following:

II. The commissioner may from time to time contract for and procure on a fee or independently contracting basis, such additional actuarial, examination, rating, and other technical and professional services as he may deem necessary for the discharge of his duties. None of the individuals rendering such services pursuant to this paragraph shall be in the classified service of the state; provided, however, the commissioner may authorize, in his discretion, the payment of group hospitalization, hospital medical care, surgical care and other medical benefits, social security benefits, annual and sick leave benefits and such other benefits as are afforded to classified state employees, except participation in the state employees retirement system, to such individuals who have been employed for 6 months or more as he shall determine.

5 Salaries. Amend RSA 94:1-a (supp) as amended by striking out where it appears the line "Research assistant to insurance commissioner 12,730 14,809", and inserting in proper alphabetical order the following:

(Assistant insurance commissioner	21,580	23,660
Director, insurance examinations	25,893	28,664).

6 Repeal. RSA 400-A:7 relative to research assistant to the insurance commissioner is hereby repealed.

7 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to third reading.

HB 812, establishing an order of distribution of assets of insolvent insurers. Ought to pass with amendment. Sen. Bergeron for the committee.

Amendment to HB 812

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Termination of Insurance Agency Contracts. Amend

RSA 402:15-c, I (supp) as inserted by 1975, 498:1 by striking out in line 4 the words "one year" and inserting in place thereof the following (3 years) so that said paragraph as amended shall read as follows:

I. Any insurance company authorized to transact fire or casualty business in this state shall, upon termination of an agent's appointment by said company, permit the renewal of all contracts of insurance written by such agent for a period of 3 years from the date of such termination, as determined by the individual underwriting requirements of said company; provided, however, that if any contract does not meet such underwriting requirements, the company shall give the agent 60 days' notice of its intention not to renew said contract.

3 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to third reading.

HB 1143, relative to unemployment compensation RSA 282. Ought to pass with amendment. Sen. Bergeron for the committee.

#### Amendment to HB 1143

Amend RSA 282:3, F as inserted by section 11 of the bill by striking out same and inserting in place thereof the following:

F. He is not seeking benefits for any week commencing during summer or other vacation breaks, semester breaks, or any other time during which a school or other academic institution is not in session, between two successive academic years or terms or any other period, if he has a contract to perform, or there is a reasonable assurance that he will perform, professional or non-professional services in the second of such academic periods and he performed such services during the first of such academic periods.

Sen. BERGERON: Mr. President, this bill extends coverage to include certain domestic service and agricultural label, excludes from the annual computation of earnings wages



earned in sports or athletic activities, reduces the maximum weekly benefit amount by the amount of pension retirement pay being received and amends the method of determining when the federal state extended benefit program will go into operation. The amendment is for clarification purposes submitted to the committee by Senator Rock, there is some question as to the language in the original bill and he feels that this takes care of the questions and clarifies the position.

Sen. ROCK: This is the result of consultations with the school department in the city of Nashua. Now Mr. Smith from Mr. Adam's office is outside in the hallway and he is having apoplexy out there because he doesn't want this amendment. He says we don't need this amendment. Our counsel in Nashua is concerned that when, this sounds trite after the discussion we have just had on energy, but should you face an energy crisis this winter and they have to close the schools and keep them open for a longer period of time in the summertime the lunch monitors, and the cooks and everybody who is there that is not a teacher, is going to come in for unemployment benefits and this says that if it is a vacation break, summer break, semester break or any other time during which a school or academic institution is not in session between two successive academic terms or any other period, he has a contract to perform or there is a reasonable assurance that he will perform, professional or nonprofessional services etc., you don't collect. If you close the schools for a month in the wintertime, you will pick up the month of work at the end of the year instead of having time off in the summertime you'll have it in the wintertime, because you don't have to heat the schools in the summertime. And I'll never understand why we close down our schools in New Hampshire in the summertime and have to build all kinds of millions of dollars worth of plants that are very expensive, when people come from all over the world including Florida, to be in New Hampshire in the summertime because we have such a beautiful climate. We train our kids that you don't go to school in the summertime so on the 24th of May they throw your daughter out of the divine hall in Durham so she can't stay there the next day and take her exam because that is what you do and that's ridiculous. What I don't want to see is people collecting if we have to close when they have a reasonable assurance that they'll pick up the work on the other end and Mr. Smith doesn't understand that and Com-

missioner Adams doesn't understand it but I understand it and our lawyers understand it and I urge the adoption of the amendment.

Sen. BRADLEY: It doesn't bother me at all that Mr. Smith is upset but can you tell me why?

Sen. ROCK: He said we don't need it that it is already covered. Well it is a little insurance because we don't think it is covered. The corporate council of the city of Nashua doesn't think it is covered.

Sen. BRADLEY: This is going to prevent somebody from applying for Unemployment Compensation rather than allowing them?

Sen. ROCK: Right. Absolutely right. They work 180 school days a year—that's what they are hired to work. Under present conditions they cannot go and collect in the summertime if they have a reasonable assurance that in September they are going to go back to work. But if you shut down the schools in the middle of the year because you don't have any electricity, they are going to go and collect even though you open up and pick up the days in June or July.

Sen. BRADLEY: I understand and I agree but the only thing is that this is the first time I have known Mr. Smith to be around and upset because we were depriving somebody up there.

Sen. LAMONTAGNE: Senator do I understand that these people can collect unemployment after their 180 days?

Sen. ROCK: No they can't because by this bill not the amendment, they have a reasonable assurance that they are going to be able to come back to work in September as a teacher can, that is the federal regulation now, but it didn't cover auxilliary enterprises and so now if the school closes on June 24th and they know that they are going to come back to work and have a reasonable assurance that they are going to come back to work in September, they don't collect unemployment, that's not their contract year, but if you close down for four weeks in January cause you have a cold snap and a shortage of electricity, if you don't have this protection they would come and collect.

Sen. LAMONTAGNE: Right now under the employment security, these people cannot collect after 180 days because they have a pending contract, is that right?

Sen. ROCK: That is my understanding.

Sen. BOSSIE: Senator, so that I may understand where I

am on this bill and your amendment, is Attorney Smith who works for DES, is he for your amendment or against it.

Sen. ROCK: He says we don't need it?

Sen. BOSSIE: He is against it?

Sen. ROCK: Yes.

Sen. FOLEY: Who might benefit from this, who might get paid that you don't want to get paid?

Sen. ROCK: I don't object to anybody getting paid for what they were hired to do and I am all in favor of anyone completing their contract. If you are hired as a cook or a school lunch monitor for 180 days of school work in the fiscal year for the calendar year for the school then I think you should get paid for 180 days. If they lay you off after 90 days you should collect. But if there is an emergency and the schools have to close but you are still going to get your 180 days pay you shouldn't be able to go into the middle and collect.

Sen. FOLEY: Are you going to get paid for that period, let's say that the school is closed for 2 weeks, are the cooks going to be paid routinely?

Sen. ROCK: No. But they will be paid in June.

Sen. FOLEY: But that isn't going to help them much while they need the money to live on.

Sen. ROCK: But they were hired to work 180 days and they will work 180 days. You're saying if you don't pass this amendment you're going to get paid for 220 days.

Sen. FOLEY: Well it might be better than having them go to the Welfare Department.

Sen. ROCK: Well that's your opinion.

Sen. LAMONTAGNE: Maybe I am wrong but I would like to get this cleared up. Let's use a bus driver and a cook. Isn't the 180 days in a year, don't they have to make up for that 180 days?

Sen. ROCK: Absolutely Senator and they would make up their contract by driving their school bus two weeks longer in the summertime and get the same number of dollars that they would have had the school been open in the wintertime. They don't lose any money, they just get a winter vacation instead of a summer vacation.

Sen. LAMONTAGNE: Senator are you telling us now that these bus drivers who work in the school cafeteria, that they can go to unemployment security office in the summertime and draw unemployment?

Sen. ROCK: No. If you are hired to work 180 days and you worked 180 days and school closes on June 24th and you have a reasonable expectation that you are going to go back to work on September 1st you don't collect for the summer-time while you are off. You can go get another job but you don't collect. I'm saying if you have to close the schools because of an emergency, other vacation breaks, school not in session, then you're not going to be paid for 220 days when you only worked 180. You get your 180 days, you might get it in a different time period, but you don't lose anything, you just don't double dip

Sen. TROWBRIDGE: Mr. President I have had two situations in my district which have shown a Catch-22 situation and I'll describe it. This is identical. One of my constituents was laid off from a firm in Peterborough. He then went and he was an engineer, he went and did contract work for another firm, not as an employee but as a contract worker. He dutifully reported his earnings to the department which were deducted from his unemployment compensation benefits. Eventually in the tracing of who is responsible for the employee, it came down to the company that was giving them contract work and they said hey, he wasn't an employee of ours. And everybody disclaimed him. At that point it came back and the Department of Employment Security said even though you have reported all these earnings, even though you have been scrupulously honest, even though you have gone and tried to find other work to support yourself you were self-employed and under the definition of the statute they could stretch the statute to say that he was self-employed which meant not only did he not have to get his unemployment compensation benefit but they charged him back for all the unemployment compensation that he has ever had, \$1100. Well it is a real Catch-22 situation. There is just no question that this is an inequity that should not be allowed and so our amendment simply says that no person shall be ineligible for benefits or required to pay back because he has engaged in temporary self-employment. He became self-employed only because he was laid off and endeavored to seek work in his regular professional trade. I don't think that anybody can disagree with the circumstance, I had the one, I thought it was an anomaly, I then found another person who got the same treatment and I said, wait a minute



this can't go on. I urge you to adopt the amendment, it is absolutely right.

Amendment adopted.

Sen. Trowbridge offered a further amendment to HB 1143.

Amendment to HB 1143

Amend the bill by striking out section 19 and inserting in place thereof the following:

19 Self-employment Clarified. Amend RSA 282:4 by inserting after paragraph A the following new subparagraph:

(3) Subject to RSA 282:2, C, no person shall be ineligible for benefits, disqualified for benefits or be required to pay back any benefits received under this chapter solely because such person has engaged in temporary self-employment endeavors while continuing to seek suitable work in his regular profession, trade or occupation after completion of such temporary self-employment endeavors.

Amendment adopted. Ordered to third reading.

HB 913, relative to probation reports. Refer to Interim Study by Judicial Committee. Sen. Bossie for the committee.

Adopted.

HB 469, increasing the minimum age for purchase, sale and consumption of alcoholic beverages to 19 years. Majority—Ought to pass; minority—inexpedient to legislate.

Sen. Foley for the majority.

Sens. Jacobson and Bossie for the minority.

Sen. Lamontagne moved that HB 469 be indefinitely postponed.

Sen. Bossie moved an amendment to HB 469.

## Amendment to HB 469

Amend the title of the bill by striking out same and inserting in place thereof the following:

## AN ACT

increasing the minimum age for purchase, sale and consumption of alcoholic beverages off-premises.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Prohibited Sales. Amend RSA 175:6 as amended by striking out said section and inserting in place thereof the following:

175:6 Prohibited Sales. No licensee, sales agent, nor any other person, shall sell or give away or cause permit or procure to be sold, delivered or given away any liquor or beverage to a person under the age of 19 years for consumption off-premises or under the age of 18, to an habitual drunkard, to an insane person, to a person under the influence of liquor, or to any other person to whom any court, selectman of a town, chief or police, overseer of public welfare or the commission shall prohibit sale. In no case shall any section of this title be so construed as to permit sale of liquor or beverages in any so-called saloon or speak-easy.

Amend RSA 175:6-a as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

175:6-a Sales to Persons Under 18 or 19. The establishment of all the following facts by a person making a sale of liquor or beverage to a person under the age of 19 years for consumption on- or off-premises or under the age of 18 for consumption on-premises shall constitute prima facie evidence of innocence and a defense to any prosecution therefor: (a) that the person falsely represented in writing and supported by some official document that the was 18 or 19 years of age or over as applicable (b) that the appearance of the person was such that an ordinary and prudent person would believe him to be 18 or 19 years of age or over as applicable; and (c) that the sale was made in good faith relying upon such written representation and appearance in the reasonable belief that the person was actually 18 or 19 years of age or over.

Amend RSA 175:6-b as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

175:6-b Statement From Purchaser as to Age. For the purposes of RSA 175:6-a, any person making the sale of alcoholic beverages to any person whose age is in question, shall require the purchaser to fill out and sign a statement in the following form each time such person makes a purchase:

.....19 .....  
I, ..... hereby represent to ..... that I am 18 or 19 years of age or older as applicable, having been born on ..... 19 ....., at ..... and am therefore legally entitled to drink alcoholic beverages. This statement is made to induce ..... to sell or otherwise furnish alcoholic beverages to the undersigned.

I understand that I am subject to a fine in accordance with the laws of the state of New Hampshire for wilfully misrepresenting my age for the purposes set forth in this statement.

.....  
(Name)

Amend RSA 175:8-a as inserted by section 6 of the bill by striking out same and inserting in place thereof the following:

175:8-a Unlawful Possession. Except as provided in RSA 175:8, any person under the age of 19 years who has in his possession any liquor or alcoholic beverage off-premises shall be guilty of a violation. Any person under the age of 19 years convicted of unlawful possession of liquor or alcoholic beverages shall forfeit the same, and it shall be disposed of as the court directs. The proceeds, if any, shall be paid into the treasury of the county wherein the proceedings were determined.

Amend RSA 175:13-a as inserted by section 14 of the bill by striking out same and inserting in place thereof the following:

175:13-a Cider, Sale of, to Persons under 18 or 19. Notwithstanding any other provisions of this chapter, it shall be unlawful for any person to sell or cause or permit or procure to be sold to any person less than 18 years of age for consumption on-premises or 19 years of age for consumption on- or off-premises cider containing more than one percent of alcohol by

volume at 60 degrees Fahrenheit, provided that the provisions of this section shall not apply to sales of cider made within 15 days of its manufacture.

Amend the bill by striking out sections 9 and 12 and renumbering sections 10, 11, 13, 14, 15, 16 and 17 to read as 9 , 10 , 11 , 12 , 13 , 14 and 15 respectively.

Sen. JACOBSON: . . . They can buy it possess it and they can give it. And I have empathy for the problem that the giving of it to the younger ones is a problem. However, even in that testimony, under the questioning of Senator Bradley, that 17 year olds were buying it in the stores. Even though that is presently a violation of the law. So there is a problem and our amendment will deal with the problem in its major proportions.

Sen. LAMONTAGNE: Senator wouldn't you feel that SB 37 after the experience of the majority of the general court have learned that lowering the age was a wrong thing to do, that your bill might pass?

Sen. JACOBSON: I believe and I may stand corrected on this that the essence of SB 37 was attempted in the house and failed. So I don't think that is the way we can go.

Sen. TROWBRIDGE: Senator Jacobson, my biggest concern with changing the drinking law has always been the fact that you have a different drinking law in the other states. We have three borders around us at least that most people would use and so having seen two of my best friends killed in that circumstance and having seen the son of one of my best friends killed in that circumstance, of driving from this is before 21, over to New York and back to get liquor. In having a 17 year old boy at the present time, I am exceedingly concerned, that by having it a different thing from Maine and Massachusetts and living in a border area we will have the beer run. Now your bill does not, I understand and I quite approve of your amendment, is there anything in your amendment that will satisfy my fear that even though they can go to the local pub in which they are not too many in my area, I presume they can go to the pub, that we won't get into this situation where people are driving back and forth. Do you have any way of allaying my fears?

Sen. JACOBSON: I cannot allay your fears 100% because there could well be those circumstances. But if you pass the



bill in its original form, in the form that was recommended by the committee, all of your fears will be realized.

Sen. TROWBRIDGE: I fully understand that; the amendment is much better than the bill. We still have unresolved when you say you cannot possess, that means that you cannot go to the corner pub and buy beer in New Hampshire and take it to a party or something.

Sen. JACOBSON: If you are under the age of 19 and the reason why we are doing that Senator is to try and accommodate ourselves to the problem that school principals face. Personally I am against changing it at all and I have stated that publicly because I believe if a person is of the age of majority then they ought to be entitled to all of the entitlements of the majority but I also recognize the problem of the 18 year olds still on high school campus with the 15, 16 and 17 year old.

Sen. TROWBRIDGE: If that is true and that is our problem, why the dickens can't we make a much bigger penalty for anyone having brought beer or liquor onto school property and give those teachers who already have ample authority, more authority to arrest. Why is it that we have to buckle the whole system down because kids will bring some cans of beer onto the campus, and have a permissive school thing where they can go out and the school administrators don't control the situation by their own rules—no drinking on school property. That seems so elemental, why can't we just do that?

Sen. JACOBSON: Senator I tried to do that in SB 37 in 1976 and I got shot down, that same principal was shot down in the House and so I am trying to steer a middle course. That is what I substantially agree with but the testimony is that the school principals are reluctant to file the complaints and what they want to do is to say to the child or parent, you are 18 therefore you cannot drink and they want to thrust it back on the parent.

Sen. TROWBRIDGE: Senator Jacobson, and I take it Senator Lamontagne would agree, and I think a lot of people would agree, that if you said we are going to strengthen the principals power on the school thing but I am darned if I am going to change the whole rule on my fear if those principals, will not when they catch someone, kick the kid out of school. What are we waiting for—you worry about the parent but the parent by definition is not at the school and we all

know in training things, that you either act when you catchit, you can't defer it or the moment is lost. Is that no true? So I hate to defer actions, we have deferred them enough, if there is enough sentiment that that looks like the way this thing should go, why don't we go that direction?

Sen. JACOBSON: Senator I am 100% behind you.

Sen. BRADLEY: I rise in support of the amendment which I feel is a very reasonable approach to this and a reasonable compromise. I was originally prepared and voted with the majority in my committee on the bill, the amendment wasn't before it was just coming in. The problem which the testimony addressed itself to in our committee was clearly the problem of the 18 year olds who buy the beer and give it to the younger kids. The problem isn't only in the high schools the problem is in the high school age group but it is not just on the school grounds. It is what happens not only during school hours but what happens after school hours, what happens at night, what happens on the weekends, that there is abuse from what we could tell from the overwhelming testimony, that 18 year olds are buying beer, primarily beer, and giving it to their younger friends in their high school age group and their peer group which may get down to age 13 and 14. So in answer to Senator Trowbridge's concerns, I don't think you can solve the problem just by changing the rule about drinking on school grounds. I think there is already a law against alcoholic beverages being on school property. In answer to the question about the problem of the beer run to out of state. It is a problem and I can appreciate your concern. The one thing that ought to be made clear on this, is that Maine has changed its law to 20 very recently. So that New Hampshire kids over on that side aren't going to be going in that direction. The problem is that the Maine kids may be going in this direction. It is true that Vermont and Massachusetts are at 18 and as far as I know they aren't immediately about to change it. Under the amendment, the 18 year old will not have to go to Vermont, to have a drink in the bar. If the 18 year old wants to go get some beer to bring back to a party or to give to his friends, yes maybe he has to make the run but Senator Jacobson is right I think that the amendment is a whole lot better from the standpoint of traveling out of state than the original bill. I think the original bill is a reasonable approach to the issue.

Sen. BLAISDELL: Senator Bradley you spoke of the tes-

timony in the committee that if raise this one more year then we could eliminate bringing the beer into the schools, one more year, 19, would stop it coming in?

Sen. BRADLEY: No, I think that everybody recognizes that all this bill can possibly do is to help reduce the problem. It is not going to solve the problem, it is not going to solve the problem that Senator Jacobson mentioned, of the kids getting it from their parent's iceboxes, it is not going to solve the problem of the few 19 year olds that are in the high schools, although that is a very small number. It is not going to solve the problem of the 18 year olds who will be able to buy it illegally just like 17 year olds who are apparently buying it illegally now. It is not going to solve all of the problems—all you can say is that there probably will be less beer bought by high school students and given to younger high school students if you pass this amendment.

Sen. BLAISDELL: Senator Bradley was there any testimony in the committee that showed that there were a lot of arrests for this in the schools, were there any arrests at all by school principals?

Sen. BRADLEY: No I don't think there was any testimony that there had been arrests. But I don't remember, maybe Senator Jacobson remembers.

Sen. BLAISDELL: Senator Jacobson can you tell me if there were any arrests at all on the school grounds for bringing beer on, was the law enforced?

Sen. JACOBSON: I asked that question specifically of several witnesses and there was not a single instance, in fact, there was no effort at all to enforce the law presently.

Sen. ROCK: Senator let me lay a little groundwork for my question. I have a daughter who is in her twenties and she was first eligible to enjoy a cocktail, purchase beer or wine when she was 21 under the old regime. I have a son who is a little younger and he was one of the first ones to come under the new regime. He is now in his twenties. I have another daughter who is younger than that. The other is just now in her 18th year. I have to share the feelings of Senator Jacobson and ask you for your opinions. Don't you think that all of this is really in the training and the background? Because we really have had no problem with any of this. When it was 21, it was 21—you didn't buy until you turned 21 and when it was 18, it was 18. I don't seem to find any thin line that you're drawing. I think you are putting your finger in the

dike. You have got to have, as Senator Trowbridge has said, strong rules and you have to have some faith and training. And isn't that the real answer?

Sen. BRADLEY: That is certainly a large part of the answer and maybe the bulk of the answer, but nevertheless I believe that if we raise the age, that will mean that there will be fewer, no matter how poorly the law may be enforced, there will be fewer 18 year olds buying beer to take out. The fact of life is that there are one heck of a lot of 18 year olds in the high schools. And they have parties and they associate and hang around with, drive their cars around with 16, 17, 15 year olds and sometimes younger. And that affinity shares the beer. The reason why, the provision between 18 and 19 is that very few of them are 19 year olds in the high school. I do think that you have some hope of reducing the amount of beer floating around the high schools or around kids of high school age, on weekends, nights, if you pass this amendment.

Sen. ROCK: Assuming that what you say is correct and that there are more 19 year olds who are out of high school than are in high school, and I don't have the statistics on that but I'll take your word for it, you have stated that it is the 18 year olds who are in high school who are going to buy the beer for their peers 16 years old. When summer comes and school breaks and all of those nice classes are empty and we close them down for that period of time, don't the 18 and 19 year olds meld right back together again, and don't you think you are going to have the small problem at the summer resort, at the lake, wherever they go, that the 19 year olds are now going to buy it for the 18 year olds?

Sen. BRADLEY: As I said before this is not going to cure the problem. I just think it is going to help and put a good size dent in it. It may not put much of a dent at all in the summer thing but I think it will put a pretty good dent in the school year.

Sen. ROCK: Senator the community in which I live, Nashua, is a border community, we are right on the state line and the community next to us is Tyngsboro and for a long time before we had the state liquor store on the border there was a little liquor store called Forest's Liquor Store. If you ever ran out on an evening or after the state liquor store closed, Mr. Forest used to do all of his business between 6 and midnight on weekdays and 6 to 1 am on weekends be-



cause he was always open. Now we have a liquor store there, we have 18 year olds and his business has gone kind of down, the store is a little shabby, don't you think he is going to have a heck of a lot more business in Tyngsboro, Massachusetts, if you pass this law, because he is going to sell all the beer and the booze to the 18 year olds who don't even have to go 20 seconds over the state line to Mr. Forest's liquor store.

Sen. BRADLEY: I think that is probably going to happen in that situation, yes.

Sen. BLAISDELL: Mr. President, I would like to rise in support of the amendment of Senator Bossie, I don't want him to fall out of his chair, it's probably the first time this year, but I want to support your amendment. I think that as I said, I haven't had that much feedback from my area, I do live on a border area. I can remember getting a call one night from my son Peter, he was over in New York someplace. He had made the beer run over to New York and my heart was in my mouth, I used to check the mileage every time he took the car, but I voted for the 18 year old drinking law and I am not sorry. As you know, I have been in the officiating business all of my life, I have been with kids and I think that we are giving them a little bit of a bum rap in a sense. I have always said that the one gift that the good Lord gave to me was my right to work with young people. And they're good kids. If a kid gets picked up for DWI, 18 years of age. Bang. It is all over the paper. If a kid at the university gets hit with something, bang! It's all over the paper. But in my own area you see a list this long for DWI for people that I went to school with and are the same age that I am, and never do you see that kind of criticism. I think we are selling the young kids of our state short. I will vote for this and I don't want you to think that I am getting too sentimental about this but we have some great kids. We ought to as parents get to know them a little bit more. Maybe that would be it and maybe the law should be enforced a little bit more and maybe take care of those that do break the law but don't punish the 96% of them for that 2 or 3 or 4%. I ask you to vote for Senator Bossie's amendment and if that doesn't go then I shall vote against the bill completely.

Sen. LAMONTAGNE: I was wondering if you felt like a judge or a chairman at this moment? After all this legal refereeing. I am going to call for a question of the amendment.

Mr. President, I will be very brief. I am neither for nor against this amendment. I am only interested in seeing a good law to either pass or kill this present law that has come before us. I would like to bring to your attention, there may be some younger Senators who have not been here for many years. The proposed statement for purchase as to the age—this has been on and a fellow by the name of Emile Soucy who used to be the lobbyist for the alcoholic beverages association has given these forms to the grocery stores throughout the whole state of New Hampshire. This statement did not work out whatsoever. That's why even the liquor commission came out with new ideas and still face the problem. Again this statement the way it is and the problems that there was that the grocery stores even some of these overgrown kids who did have the age, still signed these documents and even if it was false. But even the grocery stores were taken into the courts and therefore it wasn't enough evidence that even so because the person was a minor, the grocery stores had to face that problem in paying a very stiff fine. Now today if the grocery stores would only use the ID card all licenses have pictures on the individuals and this is a protection. One thing that Senator Trowbridge has mentioned about giving the teachers police powers. The teachers don't need that police power, the only thing that is needed is what Senator Jacobson said. If that law was put into effect it would certainly give the inspectors of the liquor commission a chance to work with the local police, but the inspectors haven't got that law and there isn't a thing that they can do to prohibit drinking on the school grounds. This is what you need. If you want some teeth into it you have got to enforcement but you haven't got the law to prohibit them. And as far as those who are getting liquor from those who have the age, you got some adult, never mind the 18 and 19 year olds, you have adults who are buying alcoholic beverages for some of those 17 year olds. Those are the people who ought to be punished and punished real well. I am telling you now again that increasing the age to 19 is not going to work.

Sen. FOLEY: Very briefly I just want to answer a few things. In the first place there is an exception in the bill that says all persons 18 years of age or older but not 19 before January 1, 1978, shall lose no rights or privileges in regards

to the purchase and consumption of both alcoholic beverages shall be considered to be 19 to be entitled to be treated in all cases if they were 19. So the fact is that if you are 18, that it is not taken away from you now if this bill passes. Senator Blaisdell is worried about Kecne up at the fraternity houses, if there are any, on the college campuses, that the 18 year olds would not be allowed to drink anymore. I am sure that when it was 21 that there were plenty of people in all the colleges, and I have never yet been to any party at any fraternity house or sorority house or anywhere else, no matter what age, and I am hitting 60, that there wasn't liquor there and I am sure there will be forever more. I don't think that is a problem. I know that Senator Jacobson was upset because there was no report in the state report of the state association and the superintendents and the commissioner of education on the state report. Just because there was no report of what was being done in the high schools doesn't mean that there hasn't been programs on both drug abuse and alcohol in most of the high schools and good attempts have been made to solve the problem. I am sure that Junie means well when he says that we are giving the kids a bum rap. I honestly feel that we are giving kids a bum rap when we allow this type of thing to be going on when we are making alcoholics out of 14, 15, 16 year olds because simply somebody 18 year olds, is being a good kid and bringing it up to the school and giving it to them. Whether you vote for the amendment or not is up to you, I think it is really worse to allow them to sit in a bar and drink and then say to them you can't go to a store and buy a 6-pack. This seems a little bit ludicrous to me. But they can swipe it from their house, put it in the car and bring it to school. Maybe this is something that can be ironed out or worked out but as far as I am concerned I just can't see that. Thank you.

Sen. JACOBSON: But is it not true in this amendment that if they did steal it from the home and they had it in their possession, they then would be in violation of the law so it goes to that question as well?

Sen. FOLEY: They'll have it in the car and they'll be against the law. But they'll have it. I might also say that many of us, and I don't know whether all of you did, receive

letters from the New Hampshire School Board and New Hampshire School Administration Association, together with the Association of School Principals urging that the age be raised to 19 as well as the superintendents. And then there was a piece in the paper this week as well as editorials in most of the papers this week, urging that this bill be passed and this piece from one of the local papers, a Manchester paper, says that the New Hampshire Parents Teachers Association has come out with a resolution which was passed at their convention encouraging state legislators to support the bill to raise it to 19. So there has been a great deal of interest shown in this bill and I just feel that it is something that should be done.

Sen. ROCK: Senator Foley I was very interested in your last comment about newspapers editorializing on the subject. Since the Manchester Union Leader has editorialized for this bill do I assume that you are supporting the concepts?

Sen. FOLEY: No I didn't mention the paper. No and sometimes—they called me at one time Queen of Smut a few months ago, they said that they congratulated me because I had the child porno bill. So you know, you take it in stride.

Sen. PRESTON: Mr. President I rise to oppose the amendment and for the bill as originally presented to us. Rightly or wrongly on the 18 year old drinking age I live in an area adjacent to a southern state that allows drinking at the age of 18 also. But I know in the Seacoast, and I can think of a tragic incident after a prom, when two teenagers that had been drinking were involved in a fatal accident and it just brought closer to mind that maybe this bill won't prevent things like that but if it does anything to prevent it then I think we should have it. It was reported at the various dances and even during school that the 18 year olds had a couple of 6-packs in their automobiles. It just makes it more accessible. If this helps to prevent the 18 year olds who are now on open campus from going down and having a couple of cold beers and returning to school then I would urge the passage of the bill as presented.

Amendment adopted. Sen. Bergeron recorded in opposition.

Sen. Lamontagne moved that HB 469 be indefinitely postponed.

Sen. Foley requested a roll call. Seconded by Senator Blaisdell.



The following Senators voted yea: Lamontagne, Jacobson, Blaisdell, Trowbridge, Rock, McLaughlin, Provost, Bossie.

The following Senators voted nay: Poulsen, Gardner, Bradley, Bergeron, Keeney, Hancock, Healy, Sanborn, Brown, Fennelly, Downing, Preston and Foley.

8 yeas      13 nays

Motion failed.

Sen. Jacobson moved to order HB 469 to third reading.

Adopted.

Recess.

Out of Recess.

Sen. Sanborn in the chair.

HB 943, relative to the crime of exposing minors to harmful materials. Referred to Interim Study by Judiciary. Sen. Keeney for the committee.

Sen. KEENEY: This is another one of those that refers to exposing minors to harmful material and in particular, obscene material. We had another bill on the same subject which was sent back to judiciary and we are now recommending that this bill go to interim study for judiciary. The committee recommends that HB 943 be sent to interim study for the judiciary committee.

Sen. BERGERON: Senator is this basically the same substance that we passed on the child pornography?

Sen. KEENEY: It is similar in that it would require the materials that are stored in a drugstore to be kept out of the reach of children or those under 17 to whom it might be harmful.

Sen. BERGERON: If that is the subject matter what is the reason for interim study?

Sen. KEENEY: One of the problems with the bill is forcing, for instance, if the drugstore has magazines and they do put them on an upper shelf there wouldn't be a problem with others coming in and looking at them, putting them down below and the one responsible would then be the store. I believe the committee felt sympathetic for the need for keep-

ing certain materials away from younger people but we couldn't quite see that it could be done easily this way.

Adopted.

(Sens. Preston, Downing, Bergeron recorded in opposition.)

HB 142, limiting smoking in places of public assembly to designated areas. Ought to pass with amendment. Sen. McLaughlin for the committee.

### Amendment to HB 142

Amend the bill by striking all after the enacting clause and inserting in place thereof the following:

1 Prohibiting Smoking in Public Places. Amend RSA 155 by inserting after section 41 the following new subdivision:

#### Smoking in Places of Public Assembly

155:42 Smoking in Places of Public Assembly.

I. No person shall smoke in any area within a library, museum, indoor theatre, concert hall, elevator, public area of a hospital or sports arena, or other public building where the area has been designated as a non-smoking area.

II. Every person in charge of any public building shall designate certain areas as being non-smoking areas consistent with public health and safety.

III. Any person having control over the premises specified in RSA 155:42 shall conspicuously display one or more "no smoking" signs in said premises and shall display one or more "smoking" signs where such designation is called for. Any agency of the state which, upon inspection of any public assembly place as delineated in paragraph I, for purposes of enforcing any other state or local regulations, find that an appropriate number of signs are not so posted on said premises, shall enforce said posting regulations.

2 Effective Date. This act shall take effect 60 days after its passage.

Sen. McLAUGHLIN: Mr. President, members of the senate, on HB 142 the amendment is on page 19 and 20. That is the actual bill. The whole bill is right there. It is a no smok-

ing bill which one paragraphs sums it all up, roman numeral 1. I recommend its passage.

Sen. TROWBRIDGE: I would like to say that I support the committee report. I am on the committee, I have worked on this for some time. Everybody accused and the press accused Senator McLaughlin of holding this bill. I would like to say publicly that in no way did he hold the bill any longer than anybody else has held a bill that has been controversial, which has had about seven drafts of amendments. Up and down and through the mill and out to people and back and there has been a lot of thought put on this bill. It's simplicity belies the fact of the amount of pressure that has gone into it. So I would like to have no one accuse Senator McLaughlin of having held the bill in any way other than trying to find a resolution to the language that comes up in this amendment and I think that that should be acknowledged. The public institutions committee is happy to bring it on the floor.

Sen. ROCK: I rise in support of the committee amendment and for the passage of the bill as now proposed by the committee. I happen to live in the area where Senator McLaughlin lives and I have seen a very irresponsible press castigate the Senator on this bill wherein I know the number of hours he has spent, not only in public institutions but in Senate Finance, but handling over 600 bills that were dumped on the Senate in the last days of this session. The task for impossible, the results of course will be decided by those who will come after us and many years ahead. But I rise in support of this and I think that the irresponsibility, especially of the Nashua Telegraph and their editorial staff has been displayed once again and I apologize for the press because I am a part of it for that portion of it that is so irresponsible.

Sen. FOLEY: Yes Mr. President I rise in support of this measure. I think it is a good bill and I hope the Senate vote for it.

Amendment adopted.

Sen. Bossie moved a further amendment to HB 142.

#### Amendment to HB 142

Amend RSA 155:42 as inserted by section 1 of the bill by inserting after paragraph III the following new paragraph:

IV. Penalty. Any person who violates the provisions of this section shall be subject to a fine not exceeding \$10.

Sen. BOSSIE: Mr. President, the public institutions committee did a good job in taking the bill out. I agree with the bill as they got it out. One thing that may have been overlooked is the penalty provision. There is none in the bill. So in the original bill, it was going to be a violation which as you know may incur a liability of a \$100 fine. Well I am a reformed smoker, one who does not smoke at least until July 1st and I think that even though that this is one thing you should not do, it should not be a criminal thing if you do it. It should be discouraged. Certainly this bill would discourage you from interfering with the rights of others and it would impose a penalty of \$10.00, not to exceed \$10.00. Similar to the dogs running loose sort of thing. It is in that gist of things. It is an inconvenience to one's friends and one's neighbors to smoke, as it is to have one's dog run loose. I think the amendment would be good and I would ask the Senate to concur with it.

Sen. FENNELLY: I rise in opposition to the amendment. I think basically the bill is lucky that it is out on the floor, but anyway we have had enough on the smoking issue and I think that this is just adding wood to the fire and I urge you to defeat the amendment.

Amendment adopted. Ordered to third reading.

HB 300, permitting a patient to direct the withdrawal of life-sustaining measures under certain circumstances. Ought to pass with amendment. Sen. Trowbridge for the committee.

#### Amendment to HB 300

Amend RSA 137-D as inserted by section 1 of the bill by striking out section 11 of same and inserting in place thereof the following:

137-D:11 Treatment Not Conditional. No health facility, attending physician, physician or licensed nurse acting under the direction of a physician shall refuse treatment to a person solely on the basis that such person has not executed a directive under this chapter.



## 137-D:12 Penalty.

I. Any person who wilfully conceals, cancels, defaces, obliterates, or damages the directive of another without such declarant's consent shall be guilty of a misdemeanor.

II. Any person who, except where justified or excused by law, falsifies or forges the directive of another, or willfully conceals or withholds personal knowledge of a revocation as provided in RSA 137-D:4, with the intent to cause a withholding or withdrawal of life-sustaining procedures contrary to the wishes of the declarant, and thereby, because of any such act, directly causes life-sustaining procedures to be withheld or withdrawn and death to thereby be hastened, shall be subject to prosecution for unlawful homicide pursuant to the provisions of RSA 630.

Sen. TROWBRIDGE: As many people know, this HB 300, the amendment—I'll explain the amendment first and then talk to the bill. The amendment appears on page 19. During the hearing one of the few objections that we heard for this bill, I mean that, few, was the proposition that a person could possibly be in the future, that is, someone could say that a hospital would not take a patient who had not made out a living will. In other words they could refuse access to the hospital if you had not made out a living will. So under Mike Sullivan of Legislative Services who drafted the amendment and he has put it in in this way, that anybody will not be refused simply because he hasn't complied with the living will. I think that most of you know the issue on this and it was amazing to me, really, at that senate hearing, of the fact that of the people who came there I would say that about 10 were in favor and one possibly 1½ were against the bill. The major objection to the living will came from the people who said, look this bill is not that bad. This bill is alright but we are worried about what it might bring down the line. My answer to that was in a question to that person who, Mr. Bigelow, 20 years from now when they try to change it, you're son and my son will be here and we'll worry about that later. I also then got up and testified on the living will. And I want you to hear this because I don't think I had had a chance to get to the first hearing in the house although I am the sponsor, and I really am probably one of the few people who go back on this subject longer than anyone in that in 1962 my father was connected with, as an

Episcopal minister, became the chaplain of St. Luke's hospital in New York. During that time my father saw a great deal of the problem, the spiritual problem really, of families confronted with persons of terminal illness. He was in the area where psychology, medicine and theology meet. It was at that time that he met another person who is a citizen of this state, Warden Baker, and at that time they considered the fact that there should be some way that a patient can express himself to say when he is well and happy as we all are today, to say that if I ever got in a situation where I am a medical disaster, where I am being kept alive artificially, that I should be able to express my will now, that I would like in the future, that if I ever get to that situation where I am not going to be able to take care of myself, and am only being kept alive artificially, that I should be able to have my physician instructed, not to keep me alive artificially. And that is all this bill does. It is an option to a person while he is well to make out what we call a living will which is specified in the law, the form of it, the conditions are specified in it, and at that time that a person is called a designated patient, that if he is in the medical opinion, someone who is being kept alive artificially alive, if in fact he has signed a living will when he was well, that expression of his intention, would be carried through. No one is compelled to make a living will, and in fact in this bill anyone who got in that situation and was comatose enough to say, I revoke my living will, that's all it takes, one verbal statement. I have changed my mind and it is all over. So this passed in California after a great deal of state, many states are now passing it, the time has come in our society where medical practice has become so good that they can keep you alive without your knowledge. And there are a great many people who have families who have been through terminal illness who recognize as I do, and I would say this publicly now, that if I ever got in that situation, I do not want to be that kind of burden on my family. And if I can make that kind of statement now and make it operative, so that my will now, will be carried out when, as and if I get in that situation I think that is a benefit to me psychologically and to my family especially, for them to know what I would have done if I were there mentally or physically. So it was amazing to me with all the talk that people have had, this is a religious issue, that there were only 10 people there, 8 people in favor, the governor's representative came and said we

don't find any fault with this bill but we wonder what the next bill will be and we asked them okay, well we'll wait for the next bill. The other one was Mrs. Kerouac of the Right to Life who came in and said approximately the same thing. I have no fault with the bill I am worried about where it leads. She also had been misinformed, I think, because as I said my father was involved with this way back and at that time there was a thing called the Euthanasia Society and everybody thinks of Euthanasia as mercy killing, something where where John McLaughlin and Al Rock will decide that it is better for Rob Trowbridge to be put away than for him to live. And on certain occasions I think they just might decide that. That is what we call euthanasia. That misconception of what euthanasia that has been talked about has been so bad that my father when he joined that society in New York, and he was working on this problem, and he said the problem isn't euthanasia. Euthanasia or mercy killing, that isn't the problem, the problem is the method by which the medical profession and the clergy who are around can resolve the problem of how a person has a right to die with dignity. That's the problem. So he made the motion in that committee to change the name to the Right to Die so it wasn't euthanasia. So I think that that kind of thing that you hear about mercy killing is just simply not in this bill. The provisions in the bill are so strict and so regulated to the fact that only those people who want to take part in this do and it is only when you do take part and sign a living will and anything comes up that if the majority of citizens don't want to take part in it they don't have to. It does give a resolution to this awful problem. I have been through three of them in my family, I don't know how many you have—it is an extremely burdensome thing on the part of the immediate family to know what to do and in the one case of my father, there was a living will, it was not legal, but I knew personally what he wanted and that was a great relief to me when that hour came. I think everybody in this room should think about that, that it is not exactly what you will do but what you are making available to your constituents who might feel very strongly on this subject. We did have one person who came in and added a new dimension to this that I have never heard. It was a lady who came in and said I have had cancer at one time and it is remitted. And I know that it will probably come back but I do not want to give to my doctor the

power to do anything to save me. I don't want that, I would rather die than be in the hospital forever. She said if you pass HB 300 I know I can make out a living will and I can then go to the doctor and say I know that my expression will be carried out. It was a really moving statement on the part of that lady and it is just exactly what we are talking about. It was her option, her decision, no one imposing it on anybody else. A very personal kind of thing. I hope that the, the amendment is unimportant compared to the bill it should be passed, but the point is I don't see that this is a great big issue, the house did not it passed it 3 to 1 and I would hope that we would be able to pass it in this session.

Sen. HEALY: In reference to this will, could I ask you a question? Are you yourself going to sign such a will?

Sen. TROWBRIDGE: Yes.

Sen. HEALY: Do you believe in the old adage, where there is life there is hope?

Sen. TROWBRIDGE: Yes, I do, up to a point.

Sen. HEALY: Would you believe Senator that I received quite a number of letters and quite a number of protests on this bill. One of them is from a state organization which I shall read to you. I have a letter from the New Hampshire States Council Knights of Columbus. They feel that HB 300 is dangerous, anti-life legislation. It should not pass in the Senate. No one can be forced to have medical treatment that he does not want so a paper signing away a patient's right to such treatment only decreases his right to life. Families now are intimidated by society to have fewer children. How soon will we see the old, weak and defenseless and sick intimidated into signing a living will. As a taxpayer, to support them increase, will the right to the death with dignity become the obligation "not to become a burden". We ask you to vote against HB 300. Help protect our inalienable right to life. Thank you, signed by Neil B. Masterson Jr. He is chairman of the Pro-Life Committee of the State's Council of the Knights of Columbus.

Sen. TROWBRIDGE: In answering your question I would like to respond to that letter. I hope that you will listen to me Senator Healy, and not just take that letter as being gospel. When he talks about right to life—he is talking about a natural course of events. The natural course of events is that everyone in this room is going to die. And the natural course of events is that everyone was born and so they are confus-



ing this issue because in fact what is happening in the hospitals now, is that you are being artificially being kept alive where, if you were not in the hospital, you would have died. If you are talking about natural life and right to life, your right to life is only to be alive as long as nature intends you to be. If you want to have someone kept in a hospital against his will even though he is comatose, but against his will if he were able to say anything, if you are really for natural right to life, you will be for this bill Senator Healy.

Sen. HEALY: Senator if you had a relation that was confined and constricted by this fatal illness, and he was being kept alive, would you be one that would like to pull the switch on that particular case?

Sen. TROWBRIDGE: Thank you for that question Senator Healy, that is the best question that you could have asked me. What I would have loved to have known ahead of time, if he were a loved one, I would have loved to have known what his intention was when he was well, what he would have wanted to have happen. I don't want to pull the plug on him, the doctor doesn't want to pull the plug on him because he has the Hippocratic oath. But wouldn't it be nice to have a thing called a living will which he had signed when he was well saying if I ever get in this circumstance I would rather have you not keep me artificially alive. Wouldn't that be better than having other people make the decision. So you have given me the exact circumstance where the living will is useful so that you do not have to make a decision, you the living one, do not have to make the decision.

Sen. HEALY: If perchance a victim was hospitalized and his will is unknown by the hospital people and he is placed in such a situation that requires similar treatment to this as I have pointed out before, where there is life there is hope, and a doctor or a surgeon administers treatment to a victim, and he is being treated by this equipment, would you pull the switch, that's what I want to know.

Sen. TROWBRIDGE: That is not the issue here Senator Healy. I don't know if you read this bill or paid any attention at all to this. Because it would only be in the circumstance that the person is there and he is being artificially kept alive, he is a designated patient, as one who would not sustain life without the machinery. At that point his relatives would say and his doctor would now and the living will would be filed with his doctor, his doctor would know that this person had

signed when he was well a statement saying that if I get in that circumstance, doctor I want you not to keep me artificially alive. Nobody pulls the plug, it is the fact that the will of the patient is carried out. Now can you get that?

Sen. HEALY: Should the hospitals all keep a registry of these peoples so if an accident victim comes in they will know what his will contains?

Sen. TROWBRIDGE: There is an obvious problem if you were in an accident in New Mexico and none of your relatives were there, there would be no way for New Mexico to know that you signed a living will in New Hampshire. But it would only be if you were kept artificially long enough that the relative flew down to New Mexico and presented the doctor with the living will and that it was legal in that jurisdiction. What they do is file it with their personal physician and their family and the family is the one presents it to two doctors, who have to certify that this was done properly.

Sen. LAMONTAGNE: Senator Trowbridge, I too have received many, many letters. In the amendment I noticed that it says any person who wilfully, how far is wilfully going to go?

Sen. TROWBRIDGE: No, no. I tried to explain that in the beginning. The first part of the amendment it says treatment not conditional, no health facility or attending physician or licensed nurse acting under the direction of a physician, can refuse you, to take you as a patient, because you haven't signed a living will. That was the only thing that came up at the hearing. The other part of the penalty, alright—anybody who cancels, defaces or damages the directive of another etc., this would be someone who tore up your living will. That is already in the bill and is not the subject of the amendment nor is the other thing a forgery. That was in the bill before.

Sen. LAMONTAGNE: Senator what happens in many of these cases where the individual who has not signed a living will in the beginning, becomes ill and is in no condition to make any decision because they are a sick person and their judgment may be impaired, what happens in that case?

Sen. TROWBRIDGE: If they have not signed a living will and they enter the hospital and they are comatose, what goes on is what goes on now. No change except if HB 300 is enacted into law. If you had a person who became terminally

ill and was there and who was a real vegetable and the family showed up and said, look my father signed this 5 years ago when he was well and happy and he said if I ever get in these circumstances I do not want to be artificially kept alive. That is my will, just as I can will my property to my son. We allow us to will our property but not our lives. That at that point if the hospitals and the doctors are faced with that declaration of the person's own intentions only those people who bother to sign one are involved then it goes into effect. If they have not signed one nothing happens that is any different than it is now.

Sen. LAMONTAGNE: What happens in a case like myself, I have been appointed a guardian for some veteran who has no family and I have the full responsibility for that life, what happens in that case?

Sen. TROWBRIDGE: Nothing. If that person has not signed a living will before he became your ward no one can sign it for him.

Sen. LAMONTAGNE: About three months ago I got called by the state hospital for one of the veterans of which I was a guardian, I had to go there and sign some papers so they could cut a leg off. In other words I would not have that right in refusing any of this equipment that is keeping him alive?

Sen. TROWBRIDGE: The doctors would handle that just as if there were no living will involved. This bill would not be involved in that situation. You would be involved in the sense that you're a guardian, that's different. You have certain duties as a guardian under law that you are allowed to do. This bill does not alter that situation. One thing Senator Lamontagne, you say you have heard from the bishop. Sure you have heard from the bishop but you haven't heard that much, you don't see all the religious orders marching through the hall, knowing this was coming up. This is not a big religious issue. This is not one where it really shouldn't be. I beg of you not to be carried off on that because I really don't think that has anything to do with this bill.

Sen. LAMONTAGNE: Well Senator don't say I haven't because I have received a lot of opposition.

Sen. TROWBRIDGE: Yes, but what have you heard, have you heard anything that really refutes what I am saying? Have you heard anything that makes a dent on fact that we

are giving persons a right to express their will when they get to that stage? Have you really been persuaded?

Sen. LAMONTAGNE: I have been persuaded enough that I am going to vote against it.

Sen. BRADLEY: I rise in support of the bill. I too was a sponsor. Just to say a couple of things. One, I have drawn a fair number of wills and my law firm has drawn a fair number of wills over the past 10 years or so, since this concept has been around of someone expressing this intent and particularly with people who say are over 60 years old almost always when you get to a conference with a client on whether they want this kind of language in the will, given the fact that you can't tell them with any assurance that the language has any validity, but just that it might make a difference in the minds of the doctor, do you want to have language such as this in your will, almost all people will opt to put this language in their will under the existing law where it is unclear what effect that has. Why do you need the law? The simple answer to that is it will make it clear that people can choose this language and that the language will have legal validity. It will have more than some kind of psychological effect on the doctor. It will be of legal effect and we'll protect the doctor. No question in my mind that people generally will choose when the time comes for them to make a will and they are in that frame of mind and they look at this issue, and as I say if they are at all approaching their elderly years, they want to have this kind of protection. Most people do. That's all this bill does—it gives them the option. Now on the religious thing, I was somewhat surprised to hear that the bishop was opposing this and took some steps to find out on my own whether there was actually anything in the Roman Catholic doctrine or canon law which is contrary to this bill. I went to a lawyer who happens to be a Catholic and has some expertise in the area and he assured me that there is nothing in this bill contrary to Roman Catholic doctrine or canon law. That the opposition of the Bishop in this state and other catholic societies in this state to this bill is their own personal feeling of this bill. It is not based on any official doctrine or canon of the catholic church.

Sen. LAMONTAGNE: Senator if you were to sign something like this in your present status of life, would you consider this analogous to signing your life away as a possible



suicide providing that you became ill, and thought you were going to become seriously ill and had no chance of living?

Sen. BRADLEY: In the words of Senator Rock you are 100% totally wrong. I would not consider it at all that.

Sen. LAMONTAGNE: Do you feel that the medical sciences have come a long way since World War II?

Sen. BRADLEY: No doubt about it.

Sen. LAMONTAGNE: You don't feel then that if you were a victim, say, of an illness that was going to prove fatal, that you possibly might not have a chance of surviving if this pro-life equipment was attached to you. How do you evaluate that. Let me rephrase it. Say that you felt that you were critically ill or fatally ill, this is a terminal bill, a bill on terminal illness, you have to make the decision on that since you are the person involved. You might feel that in this terminal illness there may be some medical science that might keep you alive if you didn't sign this living will.

Sen. BRADLEY: I think that is the problem and the reason for the bill. As we all know medical science had advanced to the point where they can keep a person who has no chance of ever recovering. They can keep him technically alive, heart beating, perhaps heart beating and breathing, circulating blood but with no chance that he will ever get back to normal or ever become conscious. And when I am at that point I would just as soon have the plug pulled and not have anyone worrying about what my intention was.

Sen. PRESTON: With all due respect I am strongly opposed to this. I am diametrically opposed to Senator Trowbridge and my main objection would be the "what's next in line" legislatively or something like this. I am really not interested in clarifying the language for the sake of legal interpretation in this. I don't see that there is any protection for the elderly and I don't look at it as a religious thing. I am just very concerned that it is a modern approach to society that we even tamper with such thinking and I really look at it as an abduction of a natural process and I just can't vote for it on that basis.

Sen. JACOBSON: I rise in support of the bill and quite contrary to what Senator Preston just said, these technical life-support instruments, of course are directly opposite to what the natural process is. The natural process of the body would be in terms of whatever illness it might have or whatever problems it might have is that it would die or live. We

have advanced medicine as a technical changer of the way natural life would pursue. Because if natural life were involved the person would not live. I think that everybody ought to take a trip to the intensive care unit not as a victim I hope but in the Hanover hospital to see these life support instruments in which a person has not a single brain wave response remaining and yet that person is kept biologically alive. My son was in the intensive care unit and there was one on either side and there was absolutely no hope. They were in terms of being a human being, dead. They had not a single response in terms of their brain. And I wish you had not only been there but in the anteroom where their loved ones are waiting in agony that they have to experience. After my experience in there I said to my wife, if I ever come to that condition you tell them to take it out or pull it out yourself. It is the most horrendous kind of experience to go through. It is not dying with dignity at all. I think we are confusing issues. Euthanasia is an entirely different act. Some of you remember when that physician performed a euthanasian act, I think his name was Sanders if I am not mistaken, in which he inserted 10cc's of air in the veins after request of the patient. That was euthanasia in which it was a deliberate act to end life. In this instance what this is saying in effect, is let the natural processes take place. By the way they removed the life supports from Karen Quinlan and she is still living, interestingly enough. And no one objecting to that situation as long as the body itself can keep the person alive. On the other hand the purpose of medicine is if there is a chance to recover that is where medicine comes in. For example, there were many, many young people, until we learned how to handle appendicitis that died by the thousands. There used to be called compaction of the bowels but we found a method which we could very easily handle appendicitis. Great miracles that are being done by medicine but there is a point at which medicine can no longer work because the brain has deteriorated to a position that it cannot carry on the body functions. That is actually what the problem is with Karen Quinlan, that the brain is still able to carry on body functions. In those instances where there are no longer any responses from the brain that person if he or she so requests, ought to be able to die with dignity. There is no prospect for those persons to return back. If a person wants to at that point then he should be entitled to make that his

consideration. Because it is the person himself, in a moment when he is rational, when he has the fullness of life, that he makes his decision. Not in the throes of the agony itself. I hope that we support this piece of legislation.

Sen. LAMONTAGNE: Assuming that my mother would have had in her will that she did not want to have any treatment when she was taken into Boston and became paralyzed and went into a coma. Because of medicine and the treatment she got in Boston, brought her back to life and in fact brought her back home. Now suppose that she would have had this in her will and that they would not have used any medicine, they would not have used the machinery that they used on her, this woman would have been dead today. Now do you feel that a person who felt there was no chance to live, do you think that it is wrong to turn around and have such a bill as this, that this person might have died and never would have come home?

Sen. JACOBSON: Well Senator I do not feel that that case is applicable. There are thousands of cases where there is coma but a coma with the testing of scientific equipment, would show that the brain waves are still functioning. In that instance all of the medical applications would be made available and that would not be a case in point.

Amendment adopted.

(Sens. Healy, Gardner, Foley, Lamontagne and Preston voted in opposition.)

Ordered to third reading.

(Sens. Keeney, Downing, Healy, Foley, Lamontagne, Gardner, Rock and Preston voted in opposition.)

HB 419, specifying procedures for the sale and fitting of hearing aids and requiring the registration of hearing aid dealers. Ought to pass with amendment. Sen. McLaughlin for the committee.

Amendment to HB 419

Amend the title of the bill by striking out same and inserting in place thereof the following:

## AN ACT

specifying procedures for the sale and fitting of hearing aids.

Amend RSA 137-D:1, IV as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

IV. "Hearing aid" means any wearable instrument or device designed for or offered for the purpose of or represented as aiding or compensating for impaired human hearing and any parts or attachments, including earmolds, but excluding batteries and cords or accessories thereto, or equipment, devices and attachments used in conjunction with services provided by a public utility company.

Amend RSA 137-D:1, I, II, III, VI and X as inserted by section 2 of the bill by striking out same and renumbering paragraphs IV, V, VII, VIII and IX to read as I, II, III, IV and V respectively.

Amend RSA 137-D as inserted by section 2 of the bill by striking out sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 17, 18, 20 and 21 and renumbering the original sections 12, 13, 14, 15, 16, 19 and 22 to read as 2, 3, 4, 5, 6, 7 and 8 respectively.

Amend RSA 137-D:2-3 as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

137-D:2 Disclosure to Customers.

I. No hearing aid dealer shall sell a hearing aid without presenting to the purchaser an itemized receipt, which shall include the following:

- (a) The name and address and signature of the purchaser;
- (b) The date of consummation of the sale;
- (c) The name and the regular place of business of the hearing aid dealer, registration, number and signature of registrant;
- (d) The make, model, serial number and purchase price of the hearing aid and the terms of the warranty;
- (e) An itemization of the total purchase price, including but not limited to the cost of the aid, earmold, and batteries and other accessories and any services;
- (f) A statement as to whether the hearing aid is "new", "used" or "reconditioned";
- (g) The following statements in 10 point type or larger: 1) "This hearing aid will not restore normal hearing nor will it



prevent further hearing loss;" 2) "You have the right to cancel this purchase or rental for any reason within 30 days after receiving the hearing aid."

II. Each registrant shall keep records of every customer to whom he renders services or sells hearing aids, including a copy of the receipt as specified under paragraph I, a record of services provided, any correspondence to or from a customer and the written recommendation or signed waiver. These records shall be preserved for 3 years after the date of transaction.

137-D:3 Unsolicited Home Sales Prohibited. No hearing aid dealer, employee or agent thereof, shall canvass either in person or by telephone from house to house for the purpose of selling or renting a hearing aid without prior request from the prospective customer, or a relative or friend of the prospective customer.

Amend RSA 137-D:4 as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

137-D:4 Return of Hearing Aid; Cancellation Fee. No hearing aid shall be sold to any person unless accompanied by a 30 day written money-back guarantee that if the person returns the hearing aid in the same condition, ordinary wear and tear excluded, as when purchased within 30 days, the hearing aid dealer shall be entitled to a cancellation fee of 20 percent of the purchase price plus a reasonable charge for earmolds. In computing the actual purchase price, all rebates, discounts and other similar allowances provided to the seller must be considered.

Amend RSA 137-D:6 as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

137-D:6 Procedure for Complaints. Any violation of RSA 137-D:2-5 shall constitute an unfair and deceptive trade practice in violation of RSA 358-A and may be enforced as provided therein.

Amend the bill by striking out all after section 2 and inserting in place thereof the following:

3 Effective Date. This act shall take effect January 1, 1978.

Sen. McLAUGHLIN: The amendment that you have in front of you on HB 419 we hope is clarifying a few points and help out the people that need helping at this time. The committee felt very seriously that HB 419 was a very hard bill for us to work on. It came to us very late, I never saw a bill with so many amendments tacked onto it. It had changes on every single page. What we have done here and hope to clarify things from complaints in the hearing. On page 3 of the amendment I believe puts the whole bill together a little bit. 13-d3. What we are saying here is that there have been a lot of complaints around that the people from the hearing aid group were out selling them and going from house to house, going to the elderly and explaining to them that they need this, telephone calls and so forth and there were a lot of complaints from people, they didn't want this, they bought a hearing aid and wouldn't have if somebody hadn't contacted them. What we are saying here is that they can't do this, it would be a violation if they do this, at the same time if they do buy a hearing aid then in 30 days thereafter if they are not satisfied with it they can get their money back on the hearing aid and a certain percentage kept for the hearing aid person who sold it but must be returned back to them and so forth. We are also saying in here that under here, they are given a proper receipt telling what they bought, new or used, the make the model, the year and so forth. We hope to clear up those parts and we hope that you pass it as amended and as has been proposed by the committee.

Amendment adopted. Ordered to third reading.

HB 640, relative to the regulation of physical therapists. Ought to pass with amendment. Sen. McLaughlin for the committee.

#### Amendment to HB 640

Amend RSA 328-A:1, IV as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

IV. "Physical therapist assistant" means an individual who assists in the treatment of patients under the direction and supervision of a registered physical therapist, in accordance

with the guidelines established by the physical therapy advisory committee. The extent and type of supervision shall be determined by the supervising physical therapist.

Amend RSA 328-A:2 as inserted by section 4 of the bill by striking out same and inserting in place thereof the following:

328-A:2 Registration Required. From and after the effective date of this chapter, no individual shall practice nor indicate ability to practice or designate himself or allow himself to be designated as a physical therapist or a physical therapist assistant in this state unless he is registered or otherwise licensed in accordance with the provisions hereof; except that these provisions shall not be construed to prohibit students who are enrolled in schools or courses in physical therapy approved by the board from performing such work as incidental to their respective courses of study, under the direct supervision of a registered physical therapist. Any physical therapist who is a graduate of a school approved by the board but not registered in this state, may, with the approval of said board upon receipt of application for registration, obtain a temporary certificate valid for 6 months from the board to practice physical therapy in this state under the direction and supervision of a registered physical therapist. If approved by the board, a temporary certificate shall be issued within 10 days after receipt of application for registration. Not more than one such temporary certificate shall be issued to any eligible person.

Amend RSA 328-A:2-a as inserted by section 5 of the bill by striking out same and inserting in place thereof the following:

328-A:2-a Physical Therapist Assistant Registration. Physical therapist assistants shall apply for and obtain registration within 6 months of application within this state. A temporary certificate of registration for physical therapist assistants shall be issued according to guidelines established by the physical therapist advisory board. To be eligible for registration by the board as a physical therapist assistant, an applicant shall: (a) have completed an approved program for physical therapist assistants offered by a college and recognized by an accrediting agency and, (b) pass, to the satisfaction of the board, examinations conducted by it. Any person who is not a graduate of an accredited program shall be considered for application for

registration by the board upon receipt of certified documentary evidence of his training and satisfactory references concerning professional behavior and ability. The board may register as a physical therapist assistant, without examination, an applicant who has passed a qualifying examination for physical therapist assistants which is acceptable to the board or who is licensed under the laws of another state or territory whose requirements the board deems equal to those in this state.

Amend RSA 328-A:4 as inserted by section 7 of the bill by striking out same and inserting in place thereof the following:

328-A:4 Endorsement. In lieu of examination the board may, in its discretion, register as a physical therapist, without examination, on the payment of \$40, and register as a physical therapist assistant, without examination, on the payment of \$20, an applicant who has passed a qualifying examination for physical therapists or physical therapist assistants which is acceptable to the board or who is licensed under the laws of another state or territory, whose requirements, including a written examination, the board deem equal to those in this state.

Amend RSA 328-A:6 as inserted by section 10 of the bill by striking out same and inserting in place thereof the following:

328-A:6 Registration. The board shall register as a physical therapist or a physical therapist assistant each applicant who proves to the satisfaction of the board his ability for registration under the terms of this chapter. It shall issue to each person registered a certificate of registration, which shall be prima facie evidence of the right of the person to whom it is issued to represent himself as a registered physical therapist or a registered physical therapist assistant, subject to the conditions and limitations of this chapter.

Amend RSA 328-A:9, II as inserted by section 13 of the bill by striking out same and inserting in place thereof the following:

II. The board, after hearing, may suspend or revoke the registration of a physical therapist assistant who has under-



taken to practice independent of direction and supervision of a registered physical therapist.

Amend RSA 328-A:14 as inserted by section 16 of the bill by striking out same and inserting in place thereof the following:

328-A:14 Powers and Duties of Board. The board in cooperation with the physical therapy advisory committee is authorized to adopt reasonable rules and regulations to carry out this chapter into effect and may amend and revoke such rules and regulations at its discretion subject to RSA 541-A. The board shall keep a record of its proceedings under this chapter and a register of all persons registered under it. The register shall show the names of every living registrant, his last known place of business and last known place of residence and date and number of his registration and certificate as a registered physical therapist or registered physical therapist assistant. The board shall, once each year, compile and publish a list of registered physical therapists and registered physical therapist assistants. All fees collected by the board under the provisions hereof shall be deposited in the treasury as unrestricted general fund revenue.

Sen. McLAUGHLIN: All this is doing here, we are taking the basic bill that has come from the House and all we have added as further request from the people who showed up at the hearing was putting assistant where it wasn't in the bill before. Many people came who are assistants who would like to have assistants in the parts of this bill and so forth. All we have done is put in assistants and told them what they have to do with the money to become one and urge that the bill pass the same way it came over from the House.

Amendment adopted. Ordered to third reading.

Sen. Keeney moved that HB 690 be taken from the table. Division vote: 11 Senators voted yea. 9 Senators voted nay. Adopted.

HB 690, revising RSA 483-A relative to dredge and fill providing greater local participation in the decision-making, allowing towns and cities to designate prime wetlands, sets forth a

filing fee, repealing RSA 431 relative to swamplands; and modifying the composition of the wetlands board.

Sen. KEENEY: Contrary to a statement that was passed out in the halls today, the amendment proposed by the environment committee is in no way a coercion. I have received an apology as to the use of the word coercion. The amendment did slightly change the makeup of the wetlands board to accommodate the water resources board chairman at the present time. It added the total water resources board to the makeup of the wetlands board and it subtracted two of the members of the public. That was a compromise amendment between the House version of the bill 690 as it came to us and followed the public hearing. I think the amendment is a fair one and I hope that those of you here will see it as such.

Sen. ROCK: Senator do you believe that this bill would cause administrative problems at the expense of the applicant?

Sen. KEENEY: In discussing the amendment I see no reason why it should.

Sen. ROCK: Would you be surprised to know that the Water Resources Board's position on HB 690 is that it would have talked with Mr. McGee this morning, we did discuss any applicant.

Sen. KEENEY: I am not surprised to hear you say it, I have talked with Mr. McGee since this morning, we did discuss any possible administrative problems.

Sen. ROCK: Would you believe Senator that this bill would increase the cost of applications to the applicant?

Sen. KEENEY: No, I see no reason why it should.

Sen. ROCK: Would you believe that the Water Resources Board's position is that it will cost an increase on the applications to the applicant?

Sen. KEENEY: I understand that in a letter written earlier to the House committee that that was so stated.

Sen. ROCK: Would you believe as recently as a letter dated June 8, 1977, that it is believed by the Water Resources Board that it would add considerably more hardship to an applicant in the processing of an application?

Sen. KEENEY: I believe the letter so states that.

Sen. ROCK: Do you agree with the concept in the statement of the letter?

Sen. KEENEY: No I do not.

Sen. ROCK: Do you believe in the competence and reliability of the Water Resources Board?

Sen. KEENEY: Yes, I have had every confidence in them and that is why I agreed to the amendment that the full Water Resources Board be incorporated into this wetlands board.

Sen. ROCK: Has your full discussion of this matter post-dated June 8, 1977 wherein the Water Resources Board's position regarding HB 690 against the bill, states "that the proposed increased cost of such agencies as the highway department, due to the requirement of the detailed plan to be filed with them, will be a hardship on the applicant."

Sen. KEENEY: I don't recall the highway department appearing for the environment committee in the Senate state that. I am aware that a letter which was passed around this morning so states that.

Sen. ROCK: Would you believe that the Water Resources Board would pass around a letter this morning that would contain false information or that would be misleading to the members of the Senate?

Sen. KEENEY: Yes and in the very use of the word coerce which I have since received an apology from the chairman of the Water Resources Board as an indication that there might be other words contained therein that also be misleading, unintentionally perhaps.

Sen. ROCK: Have I used the word coerce?

Sen. KEENEY: No but it is in the same letter that you are referring to and this is why the possibility arises that other words could be misleading.

Sen. ROCK: Putting aside the issue of semantics and dealing with the issue of reliability and responsibility, has anything that I have said to you, lessened your believe in the reliability or responsibility of the water resources board since I have not used the word coerce?

Sen. KEENEY: I am not sure which word that you used. My feeling about the responsibility of the Water Resources Board was reassured after talking with the chairman of it and further discussing the administrative problems that he saw.

Sen. ROCK: Does your amendment contain any alterations to the fees.

Sen. KEENEY: No, it just takes up the board.

Sen. ROCK: Would you believe that the Water Resources Boards states that the fees proposed in the bill are not adequate to meet the administrative costs?

Sen. KEENEY: I would believe that somebody, it is possible, feels that way.

Sen. ROCK: Do you have faith and reliability in the responsiveness of the water resources board wherein they state that the proposed HB 690 fees do not adequately meet the administrative cost?

Sen. KEENEY: I have faith in the responsibility and reliability of the Water Resources Board to the extent of having discussed it with them and that our channels of communication between the water resources board and the environment committee is probably at this point, more open than ours.

Sen. ROCK: Do you propose to replace the judgment of the Water Resources Board as to the fees and their adequacy, with your judgment for theirs?

Sen. KEENEY: No, but I think that the new wetlands board, their judgment can replace that of simply the Water Resources Board.

Sen. ROCK: Do you believe that there is anything in this bill that denies the board to permit authority on prime wetlands that have been locally determined?

Sen. KEENEY: I think that until we solve the problem of the amendment that this should be what we are discussing and not the bill under parliamentary procedures.

Sen. ROCK: You understand that I am not debating the bill on parliamentary procedures, I am debating substantive matters contained in a letter from the board.

Sen. KEENEY: I rose to discuss the amendment which I have explained and I am answering questions on it.

Sen. ROCK: But you do agree that I am not discussing a parliamentary situation with you?

Sen. KEENEY: The parliamentary situation is that we should be discussing only the amendment.

Sen. ROCK: Have several of the questions that I have asked you dealt with the context of the amendment?

Sen. KEENEY: In general you have.

Sen. ROCK: Do you believe under the concept of the bill and its amendments that the board will now have no direct input into the definition of prime wetlands?

Sen. KEENEY: No I don't believe that because the board in full has been made a part of the total wetlands board.

Sen. ROCK: Would you be surprised to learn that the Water Resources Board's position on June 8, is that in fact,



the board will have no direct input into the definition of prime wetlands if HB 690 is passed?

Sen. KEENEY: I understand that was so stated in a letter and of course if the members do not choose to put in input then they'll have none. But they are in the wetlands board and they will be expected to have the same input as any other member.

Sen. ROCK: Are there any provisions in the amendment or in the bill for expenses for new members from the public?

Sen. KEENEY: I believe they will be unpaid members of the board.

Sen. ROCK: Could you state that for a fact?

Sen. KEENEY: I don't recall as to whether or not there is a statement that they will receive any mileage but they are not intended to be paid employees of the state.

Sen. ROCK: Is it your understanding Senator that the bill eliminates the governmental exemption from governor and council on grants to fill great ponds or oceans for public good?

Sen. KEENEY: I don't recall that there is anything to that extent in the amendment.

Sen. ROCK: Can you state that for a fact?

Sen. KEENEY: I don't recall, that's a fact.

Question of the committee amendment.

Sen. Bergeron moved the previous question.

Adopted.

Senator Rock requested a roll call. Seconded by Sen. Provost.

The following Senators voted yea: Smith, Gardner, Bradley, Jacobson, Trowbridge, Keeney, Hancock, Bossie, Foley.

The following Senators voted nay: Lamontagne, Poulsen, Bergeron, Blaisdell, Rock, McLaughlin, Healy, Provost, Brown, Downing, Preston.

9 yeas      11 nays

Amendment failed.

Sen. Rock moved that HB 690 be referred to the committee or environment for interim study.

Adopted.

(Sen. Jacobson, Foley, Downing, Bradley, Hancock, Trowbridge recorded in opposition.)

HB 920, relative to the state's assumption of the responsibility of water impoundment. Without recommendation. Sen. Preston for the committee.

Sen. Preston moved that the words "refer to interim study" be substituted for the words "without recommendation."

Sen. PRESTON: This bill would require a city or town to first ascertain if a water impoundment problem could be solved at a local level before seeking legislative approval from the Water Resources Board. No one appeared at the hearing for or against the bill. As a courtesy we contacted the sponsor and the Water Resources Board. Evidently, there is an error in the bill as it stands. It refers to the wrong chapter and the subject matter would effectively prevent a legislator from sponsoring special acts regarding the turning of dams over to the state so it was recommended by the board that we send this bill to interim study.

Adopted.

## SUSPENSION OF RULES

Sen. Rock moved that the rules of the Senate be so far suspended as to allow the introduction of a committee report on CACR 16 without proper notice of a public hearing.

Adopted.

CACR 16, Relating to: The Date the Secretary of State Shall Lay the Votes for Governor Before the Senate and House of Representatives. Providing That: The Secretary of State Shall do so the First Wednesday Following the First Tuesday in January. Without Recommendation. Sen. Rock for the committee.

Sen. ROCK: Thank you Mr. President. This could be called a housekeeping bill. As you know we did change the constitutionality and the procedure whereby we report to be sworn in and we have now moved away from the previously traditional new year's day wherein the Senators would file in in straight file and in step, on New Year's morning to be

sworn in, sometimes out of step. When they changed the constitution, Mr. President, they forgot to change that portion of it which also states that the secretary of state on New Year's day will lay before the Governor and the Senate and the House of Representatives, certain votes. It was an oversight and this bill which was introduced by the Speaker of the House, the majority leader of the house, and other leadership in the House, corrects that situation, so that the secretary of state would lay before the Senate and the House of Representatives votes for governor on the first Wednesday following the first Tuesday in January. This could be called a consumers bill because it will save the consumption of much alkali seltzer and much aspirin since you don't have to be here to do that on New Year's day.

Sen. Rock moved that the words "ought to pass" be substituted for the words "without recommendation."

Adopted.

Question of ordering to third reading.

Division vote: 17 Senators voted yea; 0 Senators voted nay.

Ordered to third reading.

HB 257, establishing a permanent joint legislative committee on elderly affairs. Ought to pass with amendment. Sen. Rock for the committee.

#### Amendment to HB 257

Amend RSA 17-F:2 as inserted by section 1 of the bill by striking out said section and inserting in place thereof the following:

17-F:2 Membership. The committee shall consist of 6 members: 3 representatives appointed by the speaker of the house, and 3 senators appointed by the president of the senate.

Sen. ROCK: Thank you Mr. President. The amendment is on page 20. About 2/3's of the way down in the calendar for today. I would like to speak to the amendment and to the context of the approval of the concept of the proposal, HB 257. I know Senator Blaisdell is very interested in this, the continuation of the committee. The bill establishes the on-

going work of the committee, it seems to have been working well. It is the feeling of this committee that this committee should continue on elderly affairs. The amendment is a substantive matter that I have had some concern with not only on this bill but other matters that have come before us in the past. I have no quarrel with the committees of conference wherein the numbers of house of representatives outweigh the numbers of the members of the Senate on those committees. But committees such as this, committees such as the one to study the fact finders report, the legislative consumers council and others, I think, it should carry an equal number of Senators and an equal number of House members. Now I realize that when the house decides to appoint 25 members we are in big trouble but when the number of members is 2 or 3 or 4, we do have Senators who have enough interest in these matters and who are concerned enough to see that the equal balance that is constitutionally ours, of equal bodies, is carried forth. So the amendment simply says that there will be an equal number of Senators and House members on the body, 3 Representatives and 3 Senators. I support wholeheartedly the concept of HB 257, I support the bill that establishes a permanent joint legislative committee on elderly affairs but I would hope that the senate would agree with me that we have enough expertise and enough senators interested to give their time that they would serve on an equal basis with members of the House and I urge the adoption of the amendment.

Amendment adopted. Ordered to third reading.

HB 1024, applying the settlement law to municipal contributions for old age assistance and aid to the permanently and totally disabled. Ought to pass with amendment. Sen. Trowbridge for the committee.

#### Amendment to HB 1024

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

applying the settlement law to municipal contributions for



old age assistance and aid to the permanently and totally disabled and redefining the time for loss of settlement.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Time of Loss of Settlement. Amend RSA 164-A:5 (supp) as inserted by 1967, 192:1 by striking out lines 2 and 3 the words "continuously for one year" and inserting in place thereof the following (for a total of 365 days) so that said section as amended shall read as follows:

164-A:5 Loss of Settlement. Any settlement gained under this chapter shall be lost by any person who has been assisted as a pauper for a total of 365 days.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. TROWBRIDGE: The problem has been finding out who is responsible for what when you get to a welfare settlement situation. What the amendment does is add that it is clear that after 365 days, the town is no longer involved and the county is. There has been some talk about what a year means and so the governing of the cities and towns that we put in the specific words 365 days is the measure not a year. It is a pickayune bill.

Sen. KEENEY: I just want to be sure that the amendment applies to any settlement questions not just to the disabled.

Sen. TROWBRIDGE: Yes. It is getting it for everyone so that they know what a year is, 365 days. Why that is a problem is almost beyond me.

Amendment adopted. Ordered to third reading.

HB 559, relative to the reorganization of the New Hampshire transportation authority and prohibiting the removal of railroad track related structures. Ought to pass. Sen. Healy for the committee.

Sen. HEALY: Thank you Mr. Chairman. I think this being one of those utility bills that I better take my coat off because it is quite a complicated bill. Let me relate a little bit of history on it before we get into the meat of the bill. HB 559 is designated to combine and coordinate two important and re-

lated transportation functions under one agency for improved efficiency and operation. The bill restructures the New Hampshire transportation authority and creates two divisions, the railroad division and the public transportation division. In other words we are leaving the fat trucks alone from here in and now we are going to work on the railroads. The transportation authority was adopted during the end of the 1973 regular session but was not implemented until the middle of the 1974 special session. This established the railroad division of the public utilities commission adopted during the special session of the 1974 and it was immediately implemented. During 1976 it became increasingly evident that the railroad division of the public utilities commission should be removed from the umbrella of the commission which is principally a regulatory body and placed with another agency. It restructured New Hampshire transportation authority was a logical agency and as a result this bill was introduced. New Hampshire transportation authority has more than a year than dealing with state and federal funding of railroad improvements as well as mass transportation project and should therefore be qualified to be an administrative agency involved. The bill establishes within the transportation authority two divisions. The railroad division and the public transportation division each headed by a director. The transportation authority is a board of 3 qualified directors and an executive director oversee the operation of the authority. The whole reason for this bill is particularly it is of great importance because New Hampshire continues to be threatened with further railroad curtailments and abandonments particularly by the Boston and Maine railroad. It has been determined that some 20,000 rail-dependent industrial jobs are at stake as well as some 5,000 agricultural business jobs. These figures include railroad employees. New business considering the state consider very carefully, the availability of railway service before they take and consider coming into this direction to establish industry. Future fuel shortages will continue furthermore, undoubtedly mandate rail transportation service especially to serve our recreational areas. HB 559 does not change current statutes which recognize a need for public mass transportation as well as railroad service in the state. Instead it makes more efficient the administration of the policies already established. Restructuring the public utilities commission and SB 333 establish a de-

partment of transportation both propose total transfer of RSA 372a to their new respective agencies. There is quite a bit of background to this and at the hearing there was no opposition to this bill. We had quite a long hearing on it and quite a few speakers and I have here some further background. The bill had for example had support from Francis Reardon of the Public Utilities Commission. He did appear and offered his support. Paul Dudley from the BRA, Ingersoll Rand and so forth, did appear in support of the bill. He said industry needs the rail systems in this state. Francis Shane on leave from Comprehensive Planning to PUC rail division also was in support of the bill. A Representative Rod Allen and he appeared in support of the bill. I have a letter also from John Miles Keefe director of the New Hampshire transportation authority. He said he asked Charles W. Chandler to deliver this statement to you in the event that I am unable to be present at the hearing. He said I am generally in favor of HB 559 except for minor detail in it, on the number of the board of directors. The bill was sponsored by John Hoar from Rockingham District 8 and it calls for an executive director, an assistant director, a transportation analyst, clerk, steno, a director under PUC personnel request before the senate finance, assistant director, railroad investigator inspector, another railroad inspector, a clerk steno and a railroad planner. The 3 principal directors would come from not necessarily from railroads but people with an interest in the railroad activity. For principal one would be a shipper who has been active in railroad activity where he perhaps would be a representative of some large firm who would be a distributor and have a lot to do with shipping via railroads. Second director proposed would be an active executive from the transportation section, that would perhaps be trucks and motor vehicles and so forth. The third would be just someone from any particular field that should be or would be appointed by the governor and council. The bill is very detailed. I pointed out that the bill points out the different phases of the organization and also the facts that during this energy crisis time, railroads are very important just as trucks are and so forth throughout the state and many industries are calling upon railroads for large equipment transportation and so forth. Moving coal and moving of mill materials and large quantities of stuff is going over the railroads today. One phase of the railroad section is that the fact that many of the

railroads are being deteriorated even though the authority is trying to do the best it can but the B & M isn't helping out very much. We are running into a whole lot of troubles. To improve the freight service it was brought out that this new agency would be most beneficial in the state of New Hampshire. As far as I know there would be no allocation of funds, no appropriation—there is already money there and I will try to answer any questions that I can. It is a large, long bill, everything is here in the bill. All about the directors and so forth, it is one of these things that would cause quite a few questions. I think everything is detailed in this bill.

Sen. McLAUGHLIN: Senator is it correct that the executive director has to be a lawyer?

Sen. HEALY: Not even a judge.

Sen. McLAUGHLIN: What pay scale is the executive director set in at this time, do you know?

Sen. HEALY: I really do not know because this bill here, it wasn't brought out at the hearing, no amounts of salaries were mentioned and I don't know, the transportation authority has five members, they name the director and they set the salary. Under this new schedule it would be pretty much an agency, there would be 3 directors and they would pick the executive director and then there would be other directors appointed to take care of the other two phases of this new proposed bill.

Sen. McLAUGHLIN: Isn't it correct that this bill has to have an appropriation to run?

Sen. HEALY: What I gather and what I understand there was an allocation made and it will just be carried over from the present transportation authority to this new agency. It is just setting up a new agency. Apparently there has been some conflict where the transportation authority was involved a lot with the trucking business and now that the trucking business has been solved they want to move in a direction of railroads.

Sen. POULSEN: It only brings the language under the general powers to coincide with an agency rather than a corporation which this informally was or still is unless this bill passes. If this bill passes this gives the proper language and powers of it as an agency rather than a corporation. It is necessary if you pass this bill, it is necessary to have the amendment, the amendment was forgotten, and it is now being added to the floor amendment.



Sen. ROCK: I realize that I haven't in any sense of the word, ridden as many railroad miles as Representative Hoar has ridden and I probably never will have the expertise in judging what is best for railroads and transportation that Representative Hoar has. But I do have some background and knowledge on this subject and I would relate to the Senate what that background and knowledge is. Regardless of the fate and the outcome of SB 50, we know that there is a severe problem within the public utilities commission in the handling of transportation problems. While I know that our Senate books with senate bills have been removed from our desks if we had that senate bill in front of us you could look to SB 50 and it says, I remember the words quite clearly, that we need some further expertise that we as legislators, we as lawmakers have certain abilities, but we also lack certain expertise and we also lack certain technical knowledge that must be used to put together a reliable and viable transportation department in the state of New Hampshire. Now I have no qualms with the fact that there should be some changes in the authority of the Public Utilities Commission. They are overburdened, they spend time on transportation that they should not be spending but I really think that while Representative Hoar may have a great deal of knowledge and expertise in this area and I see some other names on the bill—Representative Allen, I know that he is familiar with Spaulding Turnpike and Representative Marsh and Coutermarsh, who ride a lot of railroads also, what we need here is expertise and technical insight that I think is somewhat beyond us as legislators. Now it is not unusual for us to spend money for technical advice and expertise. Outside consultants who have the time, the research talent and the ability to come up with answers. I do not quarrel with Representative Hoar's concept that there should be changes. But SB 50 establishes that change in a reliable manner, it charges the industry with the cost wherein HB 559 charges the cost to the general fund. We know the fiscal crunch we are in, you want to take more money from the taxpayers for this purpose, that is one thing. If you want to charge it to the industries that should be paying the cost of reliable and responsible guidance and control, that's another. I think HB 559 is commendable, I think it's idea is worthwhile, but I don't think it is going to solve your problem. I don't think it is going to get

at the answer, I think we have that vehicle in SB 50 and I would prefer to see that the track that we ride on.

Sen. BERGERON: Senator if we went against your motion and passed the bill, wouldn't you get a second crack at it in Senate finance?

Sen. ROCK: Yes sir.

Sen. BERGERON: Wouldn't you rather have it down there so that you could really study it?

Sen. ROCK: I have no objection to that Senator. I just thought that you should know my feelings on the issue at this point and so you wouldn't think we were doing something in senate finance that would not be worthy of full exposure on the Senate floor.

Sen. BERGERON: Are you trying to tell me something Senator?

Sen. ROCK: No. Senator Trowbridge speaks for Senate Finance I would not dare do that.

Sen. KEENEY: Senator Healy, I realize from the slip that we received today that the House had amended this bill and wanting to know exactly what they had done with it I turned to number 108, page 2457, and this is what I found and I hope that you will be able to explain why the House did this. It is an amendment to HB 559 and it says, amend the title of the bill by striking out same and inserting in place thereof the following: An Act establishing a program of vanity cards to be sold at various concessions with the proceeds to a search and rescue fund and providing for the funding thereof. There there is at least two columns of a bill on that subject. This refers to HB 559 and it is the exact notation that we have been provided to find the house amendment. Would you kindly explain it to me.

Sen. HEALY: Explain it? I haven't even seen it. I can explain one thing already, it was a transition. It makes the transportation authority an agency of the state instead of a public corporation etc. This is all in the bill.

Sen. KEENEY: Just go down in the below, to An Act part.

Sen. HEALY: establishes a program of vanity cards to be sold at various concessions with the proceeds to a search and rescue fund and providing for the funding thereof. I though we were keeping the vanity for the registration plates.

Sen. BRADLEY: It appears to us Mr. President that there is some kind of a mixup as Senator Keeney has pointed out.

But I believe that the bill as it comes to us is a totally different bill and the inquiry is, is there someway that we can get this straightened out before we proceed further with the debate.

Sen. HEALY: From what I gather Senator that seems to be either a typographical error, or a hoax, a misconception of what is going on. Time and again these bills come back to us and we have these problems and you can anticipate something like that on occasion, does that answer your question.

Sen. KEENEY: Yes.

Sen. TROWBRIDGE: I remember in the old railroad, a person used to pull a chain and a dead man went out but I have never seen a chain pulled and something come out of the gallery before. I would just like to ask you one question and I think it runs to the thrust of your bill. In the back of the bill it does have a good deal of authority given, of disposition of an acquired railroad properties, that any time a rail property acquired by the state is no longer needed that the division can get rid of it and a special fund is established and there is a good deal of funding in the bill. I just wonder whether anybody has taken a good look at that portion of the bill.

Sen. ROCK: Thank you Senator. I am looking at page 6 of the bill and I do so with some apprehension because I think not only now have we seen the house which spent most of the afternoon venting its ire on the Senate which previously decided that if it amends bills it doesn't have to send them back for concurrence, but sends them on to the governor directly, is not printing facetious and irrelevant amendments in the house journal that are completely different from the chairman's copy so that gives me some concern. But to answer your question Senator Trowbridge this says that the authority is authorized to sell, transfer, or lease all or any part of the rail properties and other property acquired with the provisions of the chapter to any responsible person, firm or corporation for continued operation of a railroad or other public purpose, provided if necessary, approval of such continued operation or other public purposes granted by the ICC. I see our lands being sold here without real concern by this authority as it is set up and I just hope that if my motion to indefinitely postpone fails we'll certainly send this on to Senate Finance so that we can take a hard look at what we are

going to give away and to whom in the state of New Hampshire under HB 559.

Sen. LAMONTAGNE: Mr. President and members of the Senate, I hope this motion will be defeated so that the finance committee may have a look at the financial part of it. We have had a lot of people from industry who have appeared in favor of the bill and in fact it was even said before the transportation committee that some of these people that might be affected if the tracks are pulled out, that it might involve quite a few people as far as jobs. As you know, jobs are very important in New Hampshire and certainly we want to try and keep all the jobs that we have in this State. I wish we had a little more up north, we could use them. At the same time I think it would be only fair for this bill to be sent to finance and let finance take a good look at it. I have read the chairman's copy and have read the amendment of the house. I too was not aware of such an amendment that has been brought up and is in the House amendment records. I certainly would feel that the way that it reads, that somehow it has been misprinted. As far as I am concerned the chairman's copy does not say what has been said on the Senate floor today. I hope that you will defeat the motion, send this bill to Finance so that people who are involved, industry, will have the opportunity to also appear before the Finance Committee.

Sen. HEALY: I would just like to say a few things. The railroads of the future, due to the energy crunch and so forth are going to become very important. Now we should concentrate on the railroad. I don't like to mention the word war, but what would we do without railroads if we should have a war. I am sure that today we are talking about energy, shortage of electricity, shortage of many other things and these railroads are run and rail transportation has a great call for coal which is available in this country and I see a whole lot of good faucets in this thing here and I certainly hope that the committee will approve this. Whether or not this goes to a committee I hope that it comes back in this session and is approved so that the railroads can be improved before two years hence. Thank you.

Sen. Poulsen moved an amendment to HB 559.

Amendment to HB 559



Amend RSA 21-D:4 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

21-D:4 General Powers. The New Hampshire transportation authority shall have the general powers usually possessed by New Hampshire corporations. The board of directors shall adopt and may from time to time amend bylaws governing their procedure, and adopt a seal, and shall cause records of their procedure to be kept. The agency shall have the power to institute and prosecute in its own name or in the name of the state, suits at law or in equity or special proceedings in any court of this or any other state or in any federal courts. All property of the agency and all property held in the name of the state and under the jurisdiction of the agency shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same. Notwithstanding any other provision to the contrary, no property, real or personal, held by the authority or the state pursuant to the provisions of this chapter, shall be subject to any state, county or local tax.

Amendment adopted.

Sen. Downing moved the previous question.

Adopted.

Referred to Finance under Rule No. 24.

HB 1166, relative to establishment of contractor's bid depository system by the commissioner of public works and highways. Inexpedient to legislate. Sen. Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President and members of the Senate, this bill requires the Commissioner of Public Works and Highways to establish a system of contractors bid to be followed in all subbidders on state and other critical subdivision contract construction projects. The committee report was inexpedient to legislate. There were many, many people who appeared in opposition to this bill. The Commissioner of Public Works and Highways appeared against it, the Deputy

Commissioner, Mr. Flanders, appeared against, and we had many contractors like Pelozzi who appeared against it and other contractors. The committee urges your adoption of inexpedient to legislate.

Adopted.

HB 1097, permitting the use of certain radio-type equipment while operating a motor vehicle upon a public way. Interim study by Senate Transportation Committee. Sen. Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President this bill would permit the use of citizen band radios or other radio telephone equipment while operating a motor vehicle upon the public highway. The committee felt that this bill should be studied more and therefore recommend it to interim study of the transportation committee.

Sen. BERGERON: Did I hear you right Senator that this bill would enable people to use their CB radios while they are operating their vehicles?

Sen. LAMONTAGNE: That is what the bill says.

Sen. BERGERON: And you referred it to interim study?

Sen. LAMONTAGNE: Yes.

Sen. BERGERON: Could you give me some logical explanation as to why you would do a thing like that?

Sen. LAMONTAGNE: This would have legalized those that are using the special radio and telephone equipment.

Sen. BERGERON: Senator you have just said that this would legalize people that are using CB radios and telephones in their automobiles. I happen to have a CB radio in my car and I never thought I was illegal, am I?

Sen. LAMONTAGNE: We are not talking about the CB radios what we are talking about is, I yield to Senator Poulsen.

Sen. POULSEN: Senator Bergeron, as I understand the contents of the bill what the bill is doing is not legalizing radio type detection equipment. It is legal now but the Department of Safety didn't want to have it legalized on the basis that it might become more prevalent and further make ineffective radar stopping of speeders.

Sen. BERGERON: Senator just so I understand what is going on here, we have gone from CB to scanners to now we

are the fuzz busters, right? In other words what this bill would do is legalize . . . Let me put it this way Senator, if I had a radar detector set in my car, am I legal or illegal?

Sen. POULSEN: You're legal as far as that goes, I don't know what else goes.

Sen. BERGERON: Would you please tell me if I had a radar detector set in my car and I am legal and this bill says I am legal, What is the bill, is there anything else in this bill beside radar detectors?

Sen. POULSEN: Not that I know of.

Sen. BERGERON: It detects radar stations ahead of you, you say this is in the bill or it is not in the bill, how does it affect that?

Sen. LAMONTAGNE: In other words this is something that would come up before the study committee because right now this electronics that are being used, I have one in my car too, so.

Sen. BERGERON: Do they call them a fuzz busters?

Sen. LAMONTAGNE: I don't know what they call them but I have one.

Sen. BERGERON: If so, is it illegal now.

Sen. LAMONTAGNE: Yes, I mean no. You get me so confused. Right now it is something that ought to be looked into.

Sen. Bergeron moved that the words "ought to pass" be substituted for the words "refer to interim study."

Sen. Provost moved the previous question.

Adopted.

Adopted. Ordered to third reading.

HB 1119, relative to strip development along highways. Interim study by Senate Transportation Committee. Sen. Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, members of the Senate, this bill authorizes cities and towns that control the development along the access to its highway, by regulating mapping of device settlement areas, with the majority of the city council and town meetings to accept or reject such maps. The bill would require a green belt of a hundred feet on each side of the highway or 150 feet on each side of any new highway. For highway outside of the prescribed settle-

ment areas. The committee felt it should be studied a little bit more and that's why the committee voted to send it to interim study.

Sen. Keeney moved that the words "ought to pass" be substituted for the words "refer to interim study".

Sen. KEENEY: From a brief review of this house bill it seems to me that it does give authority to the local municipalities to make a decision as to how they want their towns to develop. It is for that reason that I would prefer to see it pass at this time. I see no reason why it should have to be studied further.

Sen. BLAISDELL: Mr. President I rise in opposition to the pending motion. The people in my area feel that there is adequate regulation now through zoning ordinances and subdivisions and site plan review. I go along with the interim study report of Senator Lamontagne and I oppose the motion of Senator Keeney of ought to pass.

Sen. LAMONTAGNE: Senator Keeney do you feel that the zoning and planning boards haven't got the authority to do this in cities and towns?

Sen. KEENEY: I have served on the planning board in my town and we have discussed this and I am aware that two of the representatives of my town are sponsors of this bill and that this is my reason for feeling that it ought to pass. That they have looked into it and see a need.

Sen. LAMONTAGNE: You haven't answered my question. Do you feel that the planning board and zoning board haven't got the authority to make plans for their cities?

Sen. KEENEY: I am not aware that the planning board in my town has the authority under the ordinances.

Sen. PRESTON: Senator Keeney, you indicated that this was a home rule bill and I have not read the bill before but on page 2 it says, it shall be the responsibility of the planning board to add to the master plan a zoning map or both if neither exist, to place on a special map etc., etc. Isn't that imposing something on the local community rather than may, it says shall?

Sen. KEENEY: In reading the analysis I see that it authorizes control and I am in favor of giving any further authority to local communities if it is possible.



Sen. PRESTON: In granting further authority do you think that we should mandate it to these planning boards?

Sen. KEENEY: In general I don't feel that mandating authority is the best way, I feel that permissive authority is.

Division vote: 7 Senators voted yea; 12 Senators voted nay.  
Motion failed.

Question of interim study.

Adopted.

(Sen. Foley recorded in opposition.)

HB 764, expanding the penalty provision relative to an overloaded vehicle. Ought to pass with amendment. Sen. Lamontagne for the committee.

Sen. LAMONTAGNE: The amendment amends the title of the bill by striking out the same and inserting in place thereof the following: An Act amending the penalty for operating a motor vehicle in violation of size, height, or weight restrictions. Amend the bill by striking out section 2 and inserting in the place thereof following: penalty amended. The amendment strikes out line 5 and 6 and the words if natural person are guilty of a felony if any other person, so that said section is amended shall read as follows: penalty for exceeding permitted size or weight. Any person who shall operate or cause to be operated on the highway of this state a vehicle whose height, size or weight in the excess of herein prescribed shall be guilty of a misdemeanor for the first offense and for any subsequent offense shall be guilty of a misdemeanor. Effective date 60 days after this passage. So really what this bill does is change the penalty for extra weights and heights.

Sen. PRESTON: Does this in any way increase the tolerance allowed on the trucks now in weight?

Sen. LAMONTAGNE: No it does not.

Sen. PRESTON: What is the current, this indicates 20%.

Sen. LAMONTAGNE: I didn't hear what you said.

Sen. PRESTON: This says shall not exceed by more than 20% of the total weight. What is the current tolerance on an 80,000 lb load?

Sen. LAMONTAGNE: The tolerance under the present

statute, I think it is 5%. I would like to yield to Senator McLaughlin.

Sen. Lamontagne moved that HB 764 be laid on the table.  
Adopted.

HB 457, redefining the term "motor truck" in the motor vehicle laws. Ought to pass with amendment. Sen. Lamontagne for the committee.

Sen. Lamontagne moved that HB 457 be laid on the table.  
Adopted.

HB 297, limiting the powers and duties of the department of revenue administration to overseeing the collection of state taxes administered by said department. Ought to pass. Sen. Foley for the committee.

Sen. FOLEY: This is a housekeeping bill requested by the Department of Revenue Administration. At the present time the law reads that the Department of Revenue Administration is mandated to oversee the collection of all state taxes. Revenue Administration presently does not administer such taxes as the gasoline tax and road tolls so this bill really sets the record right as to exactly what they oversee. I move its passage.

Adopted. Ordered to third reading.

### SUSPENSION OF RULES

Senator Bergeron moved that the rules of the Senate be so far suspended as to allow all bills be placed on third reading and final passage and that all titles be the same as adopted and that they be passed at the present time.

Adopted.

### Third Reading and Final Passage

HB 546, relative to detective and security agencies.

HB 803, relative to insuring the proper disclosure of information from vital records.

HB 686, relative to the duties of persons involved with vital statistics.

HB 700, extending the time a real estate salesman may not be associated with a broker without losing his license.

HB 1113, permitting the withdrawal of a pre-existing district from a cooperative school district.

HB 409, changing the name of RSA 483-A and specifying that certain penalties relative to state waters apply to all violators.

HB 543, relative to mining and the reclamation of mined lands and making an appropriation therefor.

HB 968, eliminating the 5 year requirement for reassessment of property held by a municipality for water supply or flood control purposes.

HB 64, prohibiting persons from seeking or holding office as a member of the general court and county commissioner at the same time.

HB 216, authorizing the sale of bonds to cover the local share of construction costs on the Winnepesaukee river basin project.

HB 1124, relative to replacing the governor's committee on employment of the handicapped with the governor's commission for the handicapped.

HB 978, requiring that state owned property leased to private parties shall comply with local zoning ordinances.

HB 620, relative to contributions in the unemployment compensation law.

HB 869, clarifying the priority of claims against insolvent insurance companies and relative to an assistant insurance commissioner and director of examinations.

HB 812, establishing an order of distribution of assets of insolvent insurers.

HB 1143, relative to unemployment compensation RSA 282.

HB 469, increasing the minimum age for purchase, sale, and consumption of alcoholic beverages off-premises.

HB 142, limiting smoking in places of public assembly to designated areas.

HB 300, permitting a patient to direct the withdrawal of life-sustaining measures under certain circumstances.

HB 419, specifying procedures for the sale and fitting of hearing aids.

HB 640, relative to the regulation of physical therapists.

HB 257, establishing a permanent joint legislative committee on elderly affairs.

HB 1024, applying the settlement law to municipal contribu-

tions for old age assistance and aid to the permanently and totally disabled and redefining the time for loss of settlement.

HB 1097, permitting the use of certain radio-type equipment while operating a motor vehicle upon a public way.

HB 297, limiting the powers and duties of the department of revenue administration to overseeing the collection of state taxes administered by said department.

Adopted.

Sen. Trowbridge moved reconsideration of HB 300.

Motion failed.

Sen. Foley moved reconsideration on HB 978.

Motion failed.

Sen. Bergeron moved reconsideration on HB 1097.

Motion failed.

Sen. Hancock moved reconsideration on HB 543.

Motion failed.

Sen. Provost moved to recess until Friday, June 10 at 11:00 a.m.

Adopted.

*Friday, June 10*

Out of Recess.

Sen. Bossie in the Chair.

#### HOUSE NONCONCURS IN AMENDMENTS AND REQUESTS COMMITTEES OF CONFERENCE

HB 161, permitting licensees to promote the sale of alcoholic beverages at reduced prices.

The speaker has appointed Reps. Wilfred Cunningham, Bruce Rounds, George Lemire and James Humphrey.

Sen. Bradley moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Bradley, Keeney & Fennelly.

HB 750, permitting the appointment of an assistant county attorney for the county of Rockingham.



The Speaker has appointed Reps. Beverly Gage, Roy Davis, Charles Cummings and Richard Hanson.

Sen. Keeney moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Bradley, Keeney & Preston.

HB 760, authorizing the trustees of the New Hampshire retirement system to delegate the power to make investment decisions.

The Speaker has appointed Reps. John Hoar, Kenneth Tarr, Leigh D. Bosse and Sharon Brody.

Sen. Poulsen moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Monier, Poulsen and Preston.

HB 756, relative to acceptance of petitions by the planning board.

The Speaker has appointed Reps. Ezra Mann, Richard Hanson, John Bednar and Roger King.

Sen. Preston moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Monier, Poulsen and Preston.

HB 218, renaming the bureau of off-highway recreational vehicles and establishing an additional responsibility for the bureau.

The Speaker has appointed Reps. James Murray, K. Michael Tavitian, Marshall French and Elmer York.

Sen. Poulsen moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Poulsen, Lamontagne and Healy.

HB 741, establishing a study committee to determine financing methods and requirements for the decommissioning of nuclear power facilities.

The Speaker has appointed Reps. M. Arnold Wight, Barbara Bowler, Dorothea O'Neil and James Horrigan.

Sen. Foley moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Keeney, Jacobson and Foley.

HB 515, establishing a study committee to investigate costs and methods necessary to update the record-keeping functions in the office of the secretary of state.

The Speaker has appointed Reps. Ednapearl Parr, Zoe Vrakatisis, James White and Elaine Lyons.

Sen. Brown moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Brown, Bergeron and Monier.

HB 884, relative to the payment of wages to an employee who reports to work at the request of his employer.

The Speaker has appointed Reps. Patricia Skinner, Esther Nighswander, Kenneth Gould and Robert Wheeler.

Sen. Preston moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Monier, Brown and Preston.

HB 804, conforming the New Hampshire clean air act to the requirements of the federal environmental protection agency.

The Speaker has appointed Reps. Elizabeth Greene, Barbara Bowler, Joan Terry and Myrtle Rogers.

Sen. Monier moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Monier, Brown and Hancock.

HB 880, relative to telephone calls to emergency services in towns.

The Speaker has appointed Reps. Judith Stahl, Robert Vlack, Leo Lessard and Sarah Voll.

Sen. Brown moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Brown, Saggiotes and Foley.

HB 1156, relative to the property tax lien for the elderly and disabled.

Sen. Downing moved that the Senate refuse to accede to the request for a committee of conference.

Adopted.

## HOUSE REQUESTS CONCURRENCE IN AMENDMENTS

**SB 321**, establishing the office of state negotiations.

Sen. Poulsen moved that the Senate concur with the amendment.

Adopted.

See House record pg. 2829.

**SB 265**, concerning the selection and exemption of jurors.

Sen. Bradley moved that the Senate concur with the amendment.

Adopted.

See House record pg. 2698.

**SB 127**, relative to vacancies in the office of mayor of Nashua.

Sen. Rock moved that the Senate concur with the amendment.

Adopted.

See House Record pg. 2695.

Sen. Monier spoke under Rule No. 44.

**SB 149**, protecting the welfare of certain adults by providing protective services.

Sen. McLaughlin moved that the Senate concur with the amendment.

Adopted.

See House record pg. 2827.

**SB 308**, including stairway inclined lifts and chair devices within the statutory definition of elevators.

Sen. McLaughlin moved that the Senate concur with the amendment.

Adopted.

See House Journal pg. 2680.

**SB 118**, relative to reporting all resources received by a welfare recipient.

Sen. McLaughlin moved that the Senate concur with the amendment.

Adopted.

See House Journal pg. 2696.

**SB 222**, authorizing the town of Peterborough to appropriate money and authorize borrowing for water purposes at special town meetings.

Sen. Poulsen moved that the Senate concur with the amendment.

Adopted.

See House Journal pg. 2696.

**SB 131**, relative to the sales of furnace and stove oil.

Sen. Fennelly moved that the Senate concur with the amendment.

Adopted.



See House Journal pg. 2693.

**SB 297**, establishing a study committee to study a unified public school system for the state.

Sen. Smith moved that the Senate concur in the amendment.  
Adopted.

See House Record pg. 2694.

**SB 176**, to amend the law relative to taxation on legacies and successions.

Sen. Downing moved that the Senate concur in the amendment.

Adopted.

See House Record pg. 2694.

**SB 201**, relative to the special license for a passenger vessel operating on state waters.

Sen. Gardner moved that the Senate concur in the amendment.

Adopted.

See House Record pg. 2698.

**SB 370**, exempting from taxation interest on certain out of state bank deposits.

Sen. JACOBSON: I am suspect of the motives of this amendment recognizing the fact that the original bill, SB 370 is a very important bill and must pass. But games were played with this bill and the amendment itself is essentially non-germane. We apparently have gone in the other direction of what we intended to do in more recent years to hew to a strictly germane line. And that was at the insistence of the House because I have always been a person as all of you know to have full liberty with a bill and in my earlier terms in the Senate when we did not have that issue, I took full liberty of it, as I said before, I put 53 amendments on one bill at one time. The House of course had wide-ranging protests, there was a lot of yelling and shooting and we got the strictly germane idea. Now we are going in another direction and I think that the House is setting a very dangerous precedence by

placing what are essentially non-germane amendments particularly on a bill of this kind of importance that affects millions of dollars of deposits in New Hampshire banks and I would like to put it on as an official protest. If you wanted to change the terms of the bank advisory board put a bill in but don't put amendments of that sort which have really no emergency character either because it doesn't make a hill of beans that we change the terms of office of the bank advisory board. It doesn't make a hill of beans at this moment and yet that is put on there because the House apparently knew that this was a very critical bill and if we are going to go in that direction then we are going to go overboard and I'm going back to my 53 amendments.

Sen. Downing moved that the Senate concur in the amendment.

Adopted.

(Sen. Jacobson recorded in favor under protest.)

See House Record pg. 2833.

**SB 315**, relative to mobile home foundations.

Sen. Sanborn moved that the Senate nonconcur and set up a committee of conference.

Adopted.

The Chair appointed Sens. Sanborn, Jacobson and Bossie.

**SB 167**, relative to the enforcement of court ordered child support payments.

Sen. Bradley moved that the Senate nonconcur and set up a committee of conference.

Adopted.

The Chair appointed Sens. Bradley, Jacobson and Bossie.

**SB 81**, relative to the penalty of wilful trespass involving forest product.

Sen. Poulsen moved that the Senate nonconcur and set up a committee of conference.

Adopted.

The Chair appointed Sens. Poulsen, Fennelly and Bradley.

## HOUSE CONCURS IN SENATE AMENDMENT

HB 286, relative to the appointment and qualifications of the fish and game commission and providing for the appointment and removal of the executive director of the fish and game department.

HB 802, relative to the system of birth registration.

HB 217, relative to tuition for foster children and relative to providing liability insurance for individuals providing foster care.

HB 242, restricting the horsepower of motorboats operating upon White Oak pond in Holderness.

HB 894, providing opportunity in public education without discrimination.

HB 790, relative to cancer drug therapy.

HB 629, altering gross weight and axle distribution limits for 5 axle trucks; providing for an increase in registration fees; and limiting vehicle loads to the rated capacity as determined by the manufacturer.

HB 229, amending certain provisions of the statutes relative to OHRVs.

HB 926, amending the town charter of Hanover allowing selectmen to establish one or more parking districts.

HB 858, correcting errors, omissions and inconsistencies in the RSA and session laws and conforming existing law to the criminal code.

HB 382, relative to the jurisdiction of district courts in criminal matters.

HB 258, restricting the disposal of high level nuclear wastes in the state and within the coastal jurisdiction of the state.

HB 381, repealing the unfair sales act.

HB 881, relative to recovery of local assistance.

HB 313, prescribing the manner of posting land and providing a penalty for trespassing on posted land.

HB 207, relative to hunting with bow and arrow.

HB 149, increasing fees for lobster, clam and oyster licenses, providing a penalty for misuse of lobster and clam license.

HB 89, relative to the licensing process and license fees for hospitals and medical institutions or facilities.

HB 828, creating the position of deputy commissioner of health and welfare.

HB 1055, prohibiting the Rockingham county attorney from engaging in the private practice of law.

## ENROLLED BILLS REPORT

**SB 325**, amending the charter of the union school district of Keene to provide that a candidate for school district office shall file his declaration of candidacy no earlier than 45 days and no later than the fifth Monday next preceding the district election.

**SB 354**, relative to investment of funds of certain fiduciaries.

**HB 437**, relative to the payment of assistants and employees of the state racing commission.

**HB 152**, relative to annual property inventory forms.

Sen. Lamontagne for the committee.

## ENROLLED BILLS AMENDMENTS

**SB 145**, relative to motor vehicle repair facilities.

Sen. Bergeron for the committee.

Enrolled Amendment to **SB 145**

Amend RSA 358-D:8 as inserted by section 1 of the bill by striking out line 2 and inserting in place thereof the following:

standing the foregoing sections, if a customer does not request that an

Amendment adopted.

**HB 415**, relative to penalties if found intoxicated while hunting and relative to implied consent.

Sen. Bergeron for the committee.

Enrolled Amendment to **HB 415**

Amend RSA 214:20, IV as inserted by section 1 of the bill by striking out lines one and 2 and inserting in place thereof the following:

IV. If a person under arrest refuses to take the tests upon request of a law enforcement officer as provided in RSA 214:20, III, none shall be given, but



Sen. BERGERON: This bill corrects an omission in RSA 214:20 IV as inserted by section 1 of the bill.

Amendment adopted.

Sen. Bradley moved that HB 1086 be taken from the table. Adopted.

HB 1086, changing the name of the New Hampshire home for the elderly to the Glencliff home for the elderly; and transferring the Glencliff home for the elderly from the division of public health to the division of mental health and relative to tax exemption for Salemhaven, Inc., a community nursing home project for the needy.

Sen. Bradley moved an amendment to HB 1086.

#### Amendment to HB 1086

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

changing the name of the New Hampshire home for the elderly to the Glencliff home for the elderly; and transferring the Glencliff home for the elderly from the division of public health to the division of mental health and relative to tax exemption for Salemhaven, Inc., a community nursing home project for the needy and certain other non-profit organizations.

Amend the bill by striking out section 7 and inserting in place thereof the following:

7 Tax Exemption. Amend RSA 72 by inserting after section 23-e the following new section:

72:23-f Salemhaven, Inc. The real estate and personal property of Salemhaven, Inc., a nonprofit New Hampshire corporation occupied and used by said Salemhaven, Inc. to provide community health care facilities for persons in need of the same in the town of Salem and surrounding areas, pursuant to the rules and regulations of the United States Department of Housing and Urban Development, United States Department of Health, Education and Welfare, and the state

of New Hampshire department of health and welfare, if none of the income or profits of the health care facility is used for any purpose other than the purpose for which the health care facility is established, shall be exempt from taxation. On or before April 15 of each year, the owner of the health care facility shall file a list of all real estate and personal property owned by it on which exemption from taxation is claimed, and setting forth by affidavit the fact that Salemhaven, Inc. continues to be engaged in the provision of nonprofit health care services and facilities on said premises, upon a form prescribed and provided by the board of taxation, with the selectmen or assessors of the place where such real estate and personal property are taxable. A copy of such list and affidavit shall, at the same time, be filed with the board of taxation, which shall be the public record. If Salemhaven, Inc. shall wilfully neglect or refuse to file such list and affidavit upon request therefor, the selectmen may deny the exemption.

8 Property Exempt from Taxation; Modification Provided. Amend RSA 72:23 by inserting after paragraphs I,II,III,IV or V of this section and occupied and used by another organization described in said paragraphs, but only to the extent that such real estate and personal property would be exempt from taxation under said paragraphs if such property were owned by the organization occupying and using the property.

9 Effective Date.

I. Sections 1 through 6 of this act shall take effect July 1, 1977.

II. Sections 7 and 8 of this act shall take effect upon its passage.

Sen. BRADLEY: Mr. President, if you remember the other day I asked for permission to lay this on the table so that I could prepare a further amendment. Senator Downing had prepared an amendment to take care of a question of tax ability of a nursing home in Salem and I have a somewhat analogous question of taxable on a tax-exempt thing on my own town which is simply this, that Dartmouth College and Mary Hitchcock hospital, both tax exempt, non-profit corporations, are connected together at the medical school level, rather closely, and they use each other's buildings. A question has been raised as to whether or not that might render them taxable since the statute seems to say that the same charity has to own, occupy and use the building. All this amendment is saying is that if, it doesn't matter which one of

the charities is owning it, which one is using it as long as it would be tax-exempt otherwise and it is used entirely by tax-exempt organizations. All the amendment says is as long as both the owner and the user are both themselves tax-exempt and the property is tax-exempt and the building would otherwise be tax-exempt, it still is tax-exempt. It would remove this question of whether or not they are taxable. The numbering on this is apparently not correct but it can be taken care of with enrolled bills or somehow or other. It should be actually sections 7, 8 and 9 rather than 8, 9 and 10. In the original it was correct but in yours it is just wrong as far as the numbers go.

Amendment adopted. Ordered to third reading.

Sen. Bradley moved that HB 586 be taken from the table.

Adopted.

HB 586, to provide for the licensing and regulation of plumbers and making an appropriation therefor.

Sen. Bradley moved an amendment to HB 586.

Sen. BRADLEY: This is the plumbing registration bill. Under the bill as it came to us from the House there was a somewhat limited exception to allow people to repair their plumbing in their own home. I had several people contact me about it, that it wasn't really a broad enough, to allow one to do some of the things that you really don't need a plumber for. So all this amendment is doing is broadening that just a little bit. To say that an owner can repair and replace plumbing in his own residence and the owner and someone who works for him or his agent, can make minor repairs in any property, whether it is his residence or not that is owned by him, this does not give anyone the right to actually go out and make plumbing installations but as far as fixing leaky faucets and showers and taking off your stool and putting it back on and that sort of thing, this would allow someone to do that sort of thing without having to hire a plumber and it seems to be acceptable to the people who are interested for the plumbers.

Sen. PRESTON: Senator Bradley in the case that I brought to point yesterday, relative to the several hundred cottages and so forth that are rented by others, would this cover the maintenance man that handles these people in their customary duties that act as their agent and so forth?

Sen. BRADLEY: The way I believe this should be read and certainly the intent is that if an example you give, where

a number of people own several cottages have a man to look after them, that that man as their agent would be entitled to go in and make any minor repairs or replacements, probably pretty much as he is generally doing now. He wouldn't be able to put in a new bathroom but he would be able to go in and fix the leaky faucet and that sort of thing.

Sen. PRESTON: So that the term agent, the one handling these properties for this purpose could go about his normal duties that he has been doing.

Sen. BRADLEY: Yes.

Sen. HANCOCK: Senator I have had a number of inquiries from oil burner people who are worried that under this bill that they might be precluded from installing making water heater installations as part of oil burner facility, would that preclude them in any way?

Sen. BROWN: They are exempted under this senator.

Sen. HEALY: I rise in support of both the original amendment and the original bill. I think it is a good bill we had quite a turnout, favorable for this bill at the hearing, in fact there were no objections to it whatsoever and as Senator Hancock queried Senator Brown on, the heating dealers were present and the heating dealers go along and support the measure also. I strongly endorse this bill and hope the Senators will go along with it.

Sen. LAMONTAGNE: Mr. President, members of the senate, I personally feel that we should have some of the other Senators present to state their feelings on it.

The CHAIR: Well, the chair will say to that Senator, and you do what you want, the chair announced last evening that at 11:00 o'clock this morning we would start, we started 45 minutes late and if they, the other Senators don't want to attend the Senate session then they don't have to vote on bills. I am just stating on behalf of the chair that all the Senators should be here, there are no committee hearings to my knowledge.

Sen. LAMONTAGNE: I was going to make a motion but I have already talked on the subject and therefore I cannot make a motion to table it as non-debateable so I make it for a special order for later on in the day.

Sen. Lamontagne moved that HB 586 be laid on the table.  
Adopted.



## COMMITTEE REPORTS

HB 839, increasing the filing fees for certain elective offices and increasing the signature requirements for filing primary petitions. Inexpedient to legislate. Sen. Jacobson for the committee.

Sen. JACOBSON: This bill increases the filing fees for public office. The committee examined this and found that it did not go to the heart of the matter and that is to election reform, it simply increased the cost to candidates and could find no really sufficient reason for increasing the cost and therefore the recommendation is inexpedient to legislate.

Adopted.

HB 772, prohibiting candidates for any elective position other than a position as an election official, from working within a polling place. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: In contrast to HB 839, HB 772 is an important piece of legislation. What this bill does is it provides that no one who is running for public office except that that office be an election official office will be able to work at the polls on election day. For example, I happen to be a selectman in the town of New London and I am therefore an election official. If I should run for any other office such as Senator, or State Representative or County Commissioner, or Governor or U.S. Senator, I could not participate in the election processes of the town of New London. I think this is a very important reform with respect to preserving the purity of the election. Therefore I urge that the Senate adopt HB 772.

Sen. MONIER: Senator, I was interested in your comments, was that a declaration of candidacy?

Sen. JACOBSON: Senator, I think I covered every office except executive counselor or some of the other county offices, so I thought I would keep everybody in the dark as to what I plan to do.

Sen. KEENEY: Is there not a conflict with the laws, that if you are a selectmen you are an election official and you have to perform your duties, will this override that?

Sen. JACOBSON: There is another bill that is coming along that provides for the substitution of a person who is so disqualified.

Sen. KEENEY: I am aware that there was a court case related to a Nashua election official who was also running for representative, I believe. How will this law override that court decision. I understand the official was allowed to continue with this election duty.

Sen. JACOBSON: I am not sure about that because I don't know the actual decision, but I am sure the decision was of the nature that there was no law against it.

Adopted. Ordered to third reading.

HB 343, relevant to absentee voting. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This bill relates to some procedures with regards to absentee voting. What in essence this bill does—it restricts the obtaining, passing out and returning again of absentee ballots. There have been some loose practices in which political candidates or workers for political candidates have engaged in picking up applications for absentee ballots, having it signed, going back, picking up the absentee ballots, having it filled out and taking it back. What this bill does is, the town clerk or his designee will be the only one involved in this basic process of providing the absentee voter with a ballot and having it returned. Then it also has a process for the moderator which clarifies the procedure that is used in opening absentee ballots and depositing them which are really not far different from what the present practices are. Then there is a further section that deals with those municipalities that happen to use voting machines, that they shall proceed in exactly the same way to count absentee ballots as do those towns and precincts that do not have voting machines. Then it provides for penalties for people who violate this procedure which makes it possible for them to be guilty of a misdemeanor and knowingly violate the procedure.

Sen. JACOBSON: It says that the absentee ballots shall be deposited only at the close of the polls. There is also, they have to be delivered by 5 p.m. and nobody can get an absen-

tee ballot after 11 a.m. on the day immediately prior to the election day. You will not be able to get an application for an absentee form after 11:00 a.m. on the day prior to the election.

Sen. LAMONTAGNE: And the ballot must be returned to the same clerk at what time?

Sen. JACOBSON: By 5:00 p.m. and then he must as quickly as possible bring them over to the moderator.

Sen. LAMONTAGNE: I assume that you said that the city clerk or the deputy city clerk or whoever has been assigned by the city clerk will be responsible in receiving these ballots?

Sen. JACOBSON: That is right.

Sen. LAMONTAGNE: What about the ballots being requested by application for those who are out-of-town?

Sen. JACOBSON: They will apply to the town or city clerk in the normal process.

Sen. DOWNING: Basically the first part of the bill, Senator Jacobson, in dealing with the absentee ballots, will this do away with the problem that Congressman Cleveland got into on the absentee ballots by delivering them and so forth.

Sen. JACOBSON: It would make it impossible for anyone to get into that kind of a situation.

Sen. KEENEY: Senator Jacobson was any testimony given or any consideration given to how absentee ballots that are received too late to be counted would be disposed of so that the individual could be assured that this ballot was still a secret one even though it hadn't been actually cast?

Sen. JACOBSON: I don't believe that there is anything in this bill that does that that I know of.

Sen. KEENEY: Apparently there is nothing in the law.

Sen. JACOBSON: There is a section in the statutes but unfortunately legislative services hasn't returned my annotated book. There is a present section of the book that has to do with invalid ballots and unused ballots and I don't believe that section of the law was changed by any of these bills.

Sen. KEENEY: These would be considered invalid.

Sen. JACOBSON: An invalid ballot if they are not received in the process in time. We actually received them in New London the day after the election because of mail diffi-

culties and I believe the town clerk simply marked them invalid.

Sen. HEALY: Senator, I think the intent of this bill is very good but there are some cases where it is difficult to apply. Now let me give you an example of what I mean by this. For example in the city of Manchester we have say the League of Women Voters or more especially, committees from the board of registrars of voters, who go to these homes of which we have several of and help to deliver absentee ballots to these people that are ill, they are all qualified voters but they do assist these voters. Now this is a non-partisan group by the way, but after they vote, seal their envelope, they in turn take these ballots back. Sometimes there are as many as 20, 50 or 100 of these ballots returned to the board of registrar, or the city clerk and they in turn are sent to the wards on election day to be counted. In this case here each person as I understand, would have to mail their ballot in, is that it?

Sen. JACOBSON: Each person would have to request his own ballot and or ask the town clerk to deliver the ballot, I think that might still be possible under the statute or his deputy.

Sen. HEALY: In other words if this committee interested in getting out to vote and if they went to say Mt. Carmel home in Manchester where there are perhaps 100 people confined, they go to these homes and try to assist these people, delivering the ballots and talk to them, now what is your suggestion, that they after they seal up their ballots, to put a stamp on it and then put it right in the mail at the home?

Sen. JACOBSON: Yes, they can.

Sen. HEALY: Their maneuver in your thinking should just be promotional purposes, right?

Sen. JACOBSON: I think that they can go and encourage people to vote absentee all they want, there is nothing in the law that prevents that, it is the delivery of the application and the picking up of the absentee ballots, that this speaks to. But they could go and encourage them.

Sen. HEALY: In other words you don't think that an application form should be presented to these people without requesting it?

Sen. JACOBSON: They must ask for the application. The bill says that the clerk of the municipality or his deputy may mail it to them or deliver it to them personally.

Sen. HEALY: This committee who are interested in get-



ting out the vote they should go to say, Mt. Carmel and say, I hope that you request a ballot. If they do want a ballot is appropriate for this committee to take the name down and say would you please send an application to this particular person confined to the home.

Sen. JACOBSON: I don't think that that particular part of it is covered by the law. I think that you could do that. If they handed a list to the clerk of the municipality and said, would you please send these applications, that would probably be okay. What this law prevents is, anybody else handling applications, or absentee ballots except the clerk of the municipality or the person he has deputized or asked to be his assistant.

Sen. HEALY: I do say that the intent of the bill is good but I'm wondering in these special requests whether there would be a violation. That is my only concern.

Sen. JACOBSON: There would be a violation if they are handling the application or the absentee ballot.

Sen. LAMONTAGNE: Is there anything in this bill here that corrects or does something, these people who make these honest mistakes, when I gained 274 votes in the recount, is there anything in there for that?

Sen. JACOBSON: No. This does not deal with recounts.

Sen. HANCOCK: Senator Jacobson, as I read over the bill it doesn't seem to me as though the application is the important part. It says, when an application for an official absentee ballot is received by the clerk. So that would allow anyone to have someone sign up for an absentee ballot, take some applications to a nursing home, have them sign, present them to the city clerk but then the city clerk must mail or deliver to the nursing home the ballots. I understand that the application can be handed in person by someone who is a worker or a friend but it is only the ballot itself that cannot be handled by anyone except the clerk clerk or a person that they have deputized to do it. That's the way that I understand it. After a person votes it can be brought back without being mailed and that is a time element but I think the application, they compare the signatures so that you know that nobody is signing up 50 people and one person is writing the applications.

Sen. JACOBSON: Well the testimony was that the application and the words received by the clerk means that the applicant gives.

Sen. HANCOCK: It says when an application for an absentee voting ballot is . . . Senator Healy's problem is that he is afraid they won't even be able to get an application.

Sen. JACOBSON: I gave you erroneous information for which I apologize. I thought there was something about the application, but you are absolutely right.

Adopted. Ordered to third reading.

HB 49, relative to the procedures for the filling of vacancies in certain elected offices. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This bill does two very simple things. One, in the event that there is a vacancy for the supervisor of the checklist, the practice has been, according to the law, in the past, that the person appointed to the vacancy would continue in office until the term of office expires. What this bill does is the person appointed to the vacancy would serve only until such time that there is another election. For example, supervisors of the checklist are appointed for 6 year terms. If at the end of the first year of a term, a supervisor of the checklist, either died or resigned and a vacancy is filled by an appointment, under the present law that person would serve for five years. Under this proposal, that person would serve for only one year and there would be an election for the remaining four years in the term at the time that the supervisors of the checklist are elected. Exactly the same process is included in the bill for tax collector, where a tax collector's term is greater than one year.

Adopted. Ordered to third reading.

HB 971, removing minor officials from the biennial ballot. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: Mr. President, what this bill does is remove the moderator and supervisors of the checklist from the biannual elections and places them on the election calendar for the town meeting or city election. There is a process in here which would take care of the coordination of those election officials through 1978 and 1979. The secretary of state's office came and appeared in favor of it. It would reduce the ballot also, it would make it a local matter as it was in the traditions of New Hampshire over the years. I urge its passage.

Sen. Hancock moved an amendment to HB 971.

Sen. HANCOCK: What this amendment does is simply, it takes the moderator and supervisor of the checklist off the state ballot and has them elected on the separate ballot prepared locally at the time of the biennial election. This amendment is requested by the moderators who met with the secretary of state on the election laws. It is a rather lengthy amendment but there really aren't too many new sections. Essentially that is what it does, it would create however the need for a separate ballot at the time of the biennial election.

Sen. JACOBSON: I rise in opposition to the proposed amendment. In fact if we are going to adopt an amendment I think it is better to make the bill inexpedient to legislate. What this amendment does in effect is put it back to the biannual election and create a separate ballot that would be prepared by the town. I believe that this amendment would create considerable confusion and therefore if the Senate wishes to return it to the biannual election then I suggest that we leave the biannual election matter exactly as it is without any modification. But to create another ballot which has to be prepared by the municipality, at the time of the biannual elections, I think we will create a considerable amount of confusion. The whole intent of 971 was to remove these local officials and to put them back into the municipal elections where they are properly municipal officials.

Sen. MONIER: I have to rise in opposition to it for practically the same reasons Senator Jacobson indicated. The original 971 as Senator Jacobson has stated was for the express

purpose of keeping these two separate. Now I know that we would be keeping them separate also by a separate ballot but I think that is excess baggage and that is also one of the things that we have been trying to stop in these election reforms. There is no election reform, and taking them from one place and putting them in another ballot and setting up a separate ballot. I don't know that I would agree with inexpedient to legislate, if we are not going to adopt the amendment. But I certainly would vote against the amendment.

Sen. BRADLEY: Senator, I just want to try to understand the original bill, how it works. Let's take the supervisor of the checklist. They are going to be elected at what, town meeting?

Sen. JACOBSON: At town or city election meetings and there is a process to stagger the situation or to interface the situation with the present standing of the people who are in office at the present time.

Sen. BRADLEY: Instead of having the ballot, the bian-nual election we are going to have the supervisors of the checklist elected at the town meeting, I suppose the same way we now elect auditors or something.

Sen. JACOBSON: Exactly.

Sen. BRADLEY: So there would be an article on the war-rant to elect supervisors.

Sen. JACOBSON: They would be placed on the official ballot if there is an official ballot. I presume in Hanover they had an official ballot where the selectman, treasurer.

Sen. BRADLEY: I see. Alright. I don't understand how it works, whether you are going to have partisan or non-partisan.

Sen. JACOBSON: The moderator, it would be partisan if there is a — it could be partisan or non-partisan on the decision of the town or the city with regards to these officers.

Sen. BRADLEY: Down in section 4 on the bottom of page 2, the selectmen could make that decision?

Sen. JACOBSON: Well, you have raised an interesting question that I had not noticed before. The selectmen could not make the decision because they can only be executive, so we would have to have a little amendment on that. The city council would make the decision.

Sen. BRADLEY: That would be the legislative body but you would agree with me that it would be improper for the selectmen at least, to decide how they are going to be re-



elected if they all happen to be republican and decide it is a republican year, they shouldn't be in a position to say, okay, this year fellows, we are going to have a partisan ballot.

Sen. JACOBSON: No, this only relates to a moderator and supervisor of the checklist, they are the only two offices that are covered here.

Sen. BRADLEY: At least they wouldn't be deciding on their own office.

Sen. JACOBSON: Bear in mind that these two offices now are partisaned off, they are the only two offices that are partisan where other officers are non-partisan.

Sen. BRADLEY: If we have to put an amendment on here wouldn't it make sense to say that supervisors of the checklist and the moderator should be non-partisan as well.

Sen. JACOBSON: I would be in favor of that. Maybe the best thing would be to put it on the table, we have another amendment right at the moment now, then put it on the table and prepare an amendment. I am substantial agreement with that and there needs to be an amendment anyway with that selectmen business.

Sen. HEALY: I just want to say this, if it is referred to an interim committee or a study committee that they take into consideration voting machines, how this would affect the voting machines. I think there is some question there now where at least four or five voting machines would be affected on this bill.

Amendment failed.

Sen. Jacobson moved that HB 971 be laid on the table.  
Adopted.

HB 805, providing an opportunity for absentee balloting at any election which uses an official ballot. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: Mr. President, what this bill does is to provide the statutory procedures for an amendment that the voters of New Hampshire adopted to the constitution of New Hampshire in the last biannual election. It is an amendment to article 11 which now reads: "The general court shall provide by law for voting by qualified voters who at the time of biannual or state elections or other primary elections therefore or a city election or a town elections by

official ballot are absent from the town or city of which they are inhabitants or who by reason of physical disability are unable to vote in person in choice of any officer or officers to be elected and so on shall have that right." This bill provides for the statutory process so that absentee ballots can take place at municipal elections.

Adopted. Ordered to third reading.

HB 29, amending the election laws relative to the qualifications of a candidate filing for certain political offices. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This is essentially to provide affidavits for those persons who become candidates vis-a-vis committee filings that is for the house of representatives or the state Senate. If you go and file yourself you have to provide the affidavit, it is part of the filing but there was no process and procedure for filing affidavits for persons who are filed by committee. For example, in the last election in Senator Gardner's district, a person was filed by the party committee who didn't even live in the district and we have had people who have been filed who are not of age. So what this does is provide a necessary affidavit which says that I reside in such and such a district and in the case of the Senator I am 30 years of age and I have lived in the state 7 years as is required by those who file on their own behalf.

Adopted. Ordered to third reading.

HB 827, relative to recounts and disqualification of candidates in primary elections. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: This bill does really two things. In the first section, it eliminates the present requirement that the secretary of state must wait 10 days before proceeding with the and substitute in its place as soon thereafter as circumstances will permit. The secretary of state came and said, well circumstances, we need the recount to take place as soon as possible and by waiting 10 days we are in fact wasting several days. So this allows the secretary of state a little bit more elasticity in deciding when the recount shall be

held. Then in the second part it provides a process for those persons who are in fact disqualified to vote by reason of age, residence, or incapacitating physical disability. There was some hangup in several elections previously with regards to whether a person could take himself or herself off the ballot and this particular section provides a process for a person who is a disqualified candidate. Then there is a small third section and I just want to check what that does. It allows the secretary of state, in fact requires the secretary of state to give the rules of procedures on a recount prior to the commencement of recount so everybody knows what the process will be.

Sen. PRESTON: It does indicate on the House amendment authorizing the secretary of state to have stickers printed in the case of filling in the ballot for disqualified candidates of another name. That's why I mentioned that.

Sen. JACOBSON: Oh yes, that part isn't changed at all. That is still on the statute.

Adopted. Ordered to third reading.

HB 455, providing for a special decal on motor vehicle number plates for a person with a walking disability. Ought to pass. Sen. Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, members of the senate, as you probably know, I had introduced a bill to the Senate and had gone to the House and somehow it had the special decal for motor vehicle number plates for a person with a walking disability. Somehow it died in committee and therefore I would move for its adoption and I don't feel that we should hold back this house bill. The committee report is ought to pass.

Sen. Fennelly moved to lay HB 455 on the table.

Adopted.

HB 779, relative to guardianship of residents of Laconia state school. Ought to pass with amendment. Sen. Bradley for the committee.

## Amendment to HB 779

Amend the title of the bill by striking out same and inserting in place thereof the following:

## AN ACT

relative to legal guardianship of the developmentally disabled.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Legal Guardians Appointed. Amend RSA 464 by inserting after section 2 the following new section:

464:2-a Appointment of Guardian Without Inquisition. Whenever a resident of the Laconia State School and Training Center, the New Hampshire hospital or any similar institution or facility for the developmentally disabled over the age of 18 years is deemed not competent to manage his own affairs or property as certified by the supervisor of the institution or facility, and said resident does not have a legal guardian, the supervisor shall petition either the probate court in the county where the institution is located or the probate court in the resident's home county for the appointment of a guardian over said person. The supervisor shall advise the appointment of the person's parents or guardian while the person was a minor as legal guardian in the petition unless said parents or guardian are incompetent, unable or unwilling to assume the responsibility, in which case the supervisor shall nominate another person as guardian who is able and willing to manage the affairs of the resident. The court in such case may appoint a guardian without an inquisition upon such certification or may require an inquisition as it deems appropriate. The court costs, and any other such costs or fees that are incurred pursuant to any hearings on such a petition, or any reasonable cost incurred by the guardian appointed by said probate court, shall be borne by the resident.

2 Effective Date. This act shall take effect 60 days after its passage.

Sen. BRADLEY: This is an amendment which is the entire bill on page 16. Senator Bossie was a sponsor of a bill



earlier in the session which was very much the same subject matter as this particular bill. The purpose of the bill is to provide a mechanism to make sure that guardians get appointed for residents of Laconia State School over whom decisions have to be made and apparently not now, the machinery to make legal decisions affecting say, the health of these people. Guardians need to be appointed. What the bill does is to set up the mechanism to see that that can happen and we are proposing Senator Bossie's approach to it rather than the House's approach to it and I suspect that it is highly likely that we are going to have a committee of conference to iron out how we are going to do this.

Sen. MONIER: I just want to say that I strongly support the bill and I might add, the one that follows it. These are long overdue. I agree with Senator Bradley, I think his words were I suspect and then he went onto Senator Bossie. So do I. I just want to make sure that a committee of conference doesn't do anything with this bill because it is a badly needed bill. I strongly support it.

Amendment adopted. Ordered to third reading.

HB 609, establishing public guardian offices. Ought to pass with amendment. Sen. Bradley for the committee.

#### Amendment to HB 609

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

establishing public guardian officers and relative to professional guardians.

Amend the bill by striking section 3 and inserting in place thereof the following:

3 New Chapter. Amend RSA by inserting after Chapter 462 the following new chapter:

#### CHAPTER 462-A Professional Guardians

462-A:1 Appointment of Professional Guardians. Any probate or superior court may appoint, when necessary, a professional guardian, co-guardian or temporary guardian for the care or custody of partially or totally, temporarily or permanently disabled individuals. The professional guardian shall be trained, examined, certified and supervised in conformance with requirements and standards set by the guardian advisory council established pursuant to RSA 547-A:6 and shall provide ethically disciplined services at private, third party or agency expense.

462-A:2 Powers and Duties. The professional guardian shall have the same powers and duties as those granted to a private guardian or conservator, pursuant to RSA 462 and 464 except as limited by law or court order. Guardians shall have powers limited by the courts which appoint them to the least restrictive care and management of rights and powers appropriate to the specific type, severity and duration of disability. The guardians shall be directly responsible to the appointing court for duties assigned in each case but shall have autonomy and freedom of private practice comparable to that of a physician or attorney.

462-A:3 Appointment of Co-Guardian. At the request of a relative, friend or other interested party an individual may be appointed in conjunction with the appointment of a professional guardian. Both co-guardians shall make themselves readily available to each other to: (a) consult, (b) gather and share all relevant information and (c) plan and decide procedures which execute the powers and duties assigned by the appointing court. Disagreements shall be resolved upon petition to or by the appointing court, prior to which emergency decisions by the professional guardian shall prevail. Absence or unavailability of either co-guardian empowers the other to act in the capacity of guardian. Absence or unavailability of both co-guardians empowers another certified professional guardian formally appointed by either co-guardian to cover or act as temporary guardian for a period no longer than 3 weeks. Absence and unavailability of both co-guardians without coverage for 31 days or longer automatically requires a hearing before the appointing court.

462-A:4 Certification. The chief judge of probate working with the guardian advisory council, established pursuant to RSA 547-A:6, shall establish certification procedures for professional guardians. The state shall recognize certification of

appropriately trained and qualified guardians, and such certification shall be given without fee upon:

I. Successful completion of education and training prescribed by the council.

II. Successful passing of examination approved by the council.

III. Agreement by a majority of members of the council as to the high moral and ethical character of the candidate.

IV. Agreement by the candidate that in each case of future appointment as guardian or co-guardian he will accept continuing supervision and review of all guardianship records by the appointing court and council providing such records will be confidential and information contained therein shall not be disclosed in violation of New Hampshire law and the United States Constitution.

V. A list of professional guardians who have been certified will be annually submitted by the council to all district, probate and county courts.

4 Effective Date. This act shall take effect July 1, 1977.

Amend RSA 547-A:7, as inserted by section 1 of the bill, by inserting after paragraph III the following new paragraphs:

IV. The council shall approve of a curriculum of post graduate (post-baccalaureate) training of professional guardians, which may be carried out at recognized degree granting educational or training institutions both inside or outside of the state. It shall establish and administer examinations to candidates who have completed its training and educational requirements. Costs of education and training of the guardians will be privately paid for.

V. The council shall be empowered, without state obligation, to apply for private and federal grants to fund costs of administration and research and to fund training expenses and stipends which may be incurred by guardian training programs it has approved, established or both.

Sen. BRADLEY: Mr. President, this is another bill that Senator Monier indicated is somewhat to the same effect or deals with the same problem. There are 2 to 300 people in the New Hampshire hospital that are not competent to give

permission for medical treatment. Presently what the hospital is doing is perform the treatment without guardian approval which is a pretty questionable practice. But they are sort of left with no choice and may very well leave them open to claims of liability. The same problem exists in Laconia State School for perhaps as many as 400 people. This bill provides a couple of other different mechanisms to allow for the appointment of guardians who would look after the needs of these people who are not able to make these decisions for their own welfare and the bill with the amendment actually has two different kinds of guardians that are somewhat new concepts in the law although the idea of having guardians has been around for a long time. One would be a so-called public guardian which would require an appropriation although our testimony has been that at least part of this would be covered by federal funds. The other would be a so-called professional guardian. The public guardian would actually be a public employee like the public defender or something and the amendment establishes a concept of a professional guardian who is a person who would have to meet certain qualifications and training and standards under the guardian advisory council which is also established in this bill. They would work not on the public expense, they would work at third party expense. Both of these bills that have been in the house, obviously they passed 609. The amendment is a bill that they also considered or felt they were able to deal with and send it to study committee. So this is another bill, the best we can say is that we ought to have a committee of conference on it and I am reasonably certain that that is what will happen on both of these bills and the amendment, I think we should be able to get the guts of both of them which Senator Monier indicated really need it.

Sen. MONIER: Just a question for the record Senator Bradley. Why is it we get into such a hassle over needed things like this. For 20 years obviously, there has been a need for guardianship of both those that are declared incompetent and those that are born and declared incompetent?

Sen. BRADLEY: Yes, it is a long story and I am not sure that I am the guy who can really describe it. There were various bills and proposals, I guess part of the problem was that no one totally got their arms around it and got the thing under control from the beginning. We had a bill earlier where



we were in kind of the same boat, the House came over and said hey, we didn't have time to act on that bill but please send us back something so we can act on it. And we are about in that position on these. I don't think there is any other alternative this morning.

Sen. MONIER: Can I just ask you publicly what you would do, don't you feel very strongly that in a committee of conference this has to be passed in some form or another?

Sen. BRADLEY: I think sort of the people who are operating on this, I think there is a pretty good consensus that you have to get the guts of these things on the books, whether you do it precisely with this and whether you have this guardian advisory council or not in exactly that form can be negotiated, but the basic idea that you have to have the mechanism there, to get guardians appointed for these people, we have to have it.

Amendment adopted.

Ordered to third reading.

HB 814, amending the eminent domain procedure act. Ought to pass with amendment. Sen. Bradley for the committee.

#### Amendment to HB 814

Amend RSA 498-A:31 as inserted by section 14 of the bill by striking out the same and inserting in place thereof the following:

498-A:31 Compensation of Guardian Ad Litem. A guardian ad litem appointed pursuant to RSA 498-A:4, III (a) shall be an attorney at law who shall be entitled to reasonable fees for services rendered as guardian ad litem. Upon approval by the superior court, said fees shall be paid by the condemnor.

Sen. BRADLEY: Mr. President the amendment is on the bottom of page 19 and 20. It deals—the general bill has some rather technical housekeeping revisions to the eminent domain procedure act which was asked for by the attorney general. There was no opposition to the bill. The only one testifying for it was Mr. Twigg who was on that council and all of the things did appear to be pretty much housekeeping items. One item involved the compensation of a guardian

ad litem, that is a guardian who has been appointed for the purpose of litigation when there are things like minors or incompetence involved. It provided for the compensation of the guardian ad litem to be taken for the damages assessed for the property which is a change in apparently the present law which the committee thought ought to be reversed and left the same. So all the amendment does is to provide that the guardian ad litem fee as approved by the court would be paid.

Sen. HEALY: Senator Bradley on your amendment I noticed that the attorney general you say requested the amendment.

Sen. BRADLEY: I believe it is probably technically requested by the eminent domain commission on advice of the attorney general's office.

Sen. HEALY: It says here that the guardian ad litem appointed pursuant to RSA and so forth, shall be an attorney at law who shall be entitled to reasonable fees for services rendered as guardian ad litem upon approval of superior court and so forth. Why is it that he has to be an attorney-at-law?

Sen. BRADLEY: You understand, the guardian ad litem is the person who is going to represent the interest of the ward or the incompetent or the minor as the case may be in litigation, ad litem means for the purpose of litigation so if you had a guardian ad litem who was not an attorney probably in order to protect the interests of the ward, you would have to hire an attorney and invariably guardians ad litem are in fact attorneys. There is nothing very unusual about making such a provision.

Sen. HEALY: Would you believe Senator that I once served as a guardian in a similar case as this and did not require an attorney?

Sen. BRADLEY: I would believe you, were you guardian ad litem for the purpose of litigation?

Sen. HEALY: Litigation? And other things yes.

Sen. BRADLEY: Senator I think that my experience has been that usually these people would be attorneys, it is not something believe me, that I have any strong interest in, if you want to amend that to say, to strike out the word attorney, I have no problem with that.

Sen. HEALY: Would you think this would be a good reason too to give a new lawyer a job?

Sen. BRADLEY: This is another bill that I am reporting for Senator Bossie who is the principal architect of this amendment so I am not sure that I want to speak for him on it but I don't believe the idea was to provide a lawyer's full employment bill and I don't think there will be that many.

Sen. JACOBSON: Senator I heard mention of new jobs for lawyers, is there any job that might be open for me?

Sen. BRADLEY: Well, when we get through defining attorney-at-law in this session, Senator, undoubtedly you will be included.

Amendment adopted. Ordered to third reading.

HB 787, relative to mental health evaluations of minors before the juvenile court. Ought to pass with amendment. Sen. Bradley for the committee.

#### Amendment to HB 787

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Judge's Discretion. Amend RSA 169:9-a (supp) as inserted by 1973, 447:1 by striking out said section and inserting in place thereof the following:

169:9-a Mental Health Evaluation. Any minor before the court shall, at the discretion of the court, together with parents, guardians or person with custody or control submit to a mental health evaluation to be completed within 60 days, by an agency other than the New Hampshire hospital, approved by the director of the division of mental health, of the department of health and welfare, a psychologist certified in New Hampshire, or a qualified psychiatrist, provided that the evaluation may be performed by the New Hampshire hospital upon certification to the hospital and the director of the division of mental health by the local community mental health center established pursuant to RSA 126-B that such center cannot provide a complete evaluation within 60 days. A written report of the evaluation shall be given to the court before the hearing on the merits is held. If the parents or guardian of the minor object to the mental health evaluation, they shall object in writing to the court having jurisdiction of the matter within 5 days after notification of the time and

place of said evaluation, and the court shall hold a hearing to consider the objection prior to ordering said evaluation or, upon good cause shown, may excuse the minor from the provisions of this section. Whenever such an evaluation has been made for consideration at a previous hearing, it shall be jointly reviewed by the court and the evaluating agency before the case is heard. The evaluation facility, agency or individual shall keep records, but no reports or records of information contained therein shall be made available, other than to the court, except upon the written consent of the person examined or treated, and except as provided in RSA 169:22. The expense of such evaluation is to be borne as provided in RSA 169:31-b.

2 New Section. Amend RSA 169 by inserting after section 31-a the following new section:

169:31-b Liability for Expenses. Whenever an order creating liability for expenses is issued by the court in accordance with RSA 169:9-a, any expenses incurred shall be payable by the person chargeable by law for the child's support and necessities up to an amount determined by the court to be within the person's ability to pay, and such amount shall be stated in the court order. If such person shall be unable or shall refuse to pay expenses in whole or in part, the town in which the child was resident at the time of his being the subject of a petition in accordance with RSA 169:3 or his being taken into custody shall be liable for such expenses with a right of action over for such expenses against the person chargeable by law for the child's support and necessities. A court may make such order as to reimbursement, to the town of residence as may be reasonable and just, based on the person's ability to pay. If a town cannot collect for such payments made in behalf of a child, such payments shall be considered assistance to a pauper as to the person chargeable by law for the child's support and necessities and such person shall be subject to a loss of settlement in accordance with the provisions of RSA 164-A:5

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. BRADLEY: The amendment is on page 20 and 21 and is the bill. Under the present law there is no need, no requirement to have a mental health evaluation until the second time around. This would provide that the court in its



discretion can have a mental health evaluation the first time around. That is really what the first section is all about. The second section over on page 21 has to do with clarifying something that has been a problem in several bills which we are trying to iron out and make uniform thing for who is liable for these mental health evaluations and similar kinds of expenses that get incurred in the juvenile area. You will see other bills today which refer to this same section, incorporate the same section, which lays out the principal that the parents or the people responsible for the child's support are liable in the first instance if they are able to pay. If they are not able to pay then it goes to the responsibility of the town of residence of the child with a right of action over against the person chargeable.

Amendment adopted. Ordered to third reading.

HB 676, relative to the burden of proof in hearings on pre-judgment attachment. Ought to pass with amendment. Sen. Bradley for the committee.

#### Amendment to HB 676

Amend the title of the bill by striking out the same and inserting in place thereof the following:

#### AN ACT relative to prejudgment attachments.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Burden of Proof. Amend RSA 511-A:3 (supp) as inserted by 1973, 537:1 by striking out said section and inserting in place thereof the following:

511-A:3 Hearing by Court. When a defendant objects to the making of attachments, the court shall set a hearing on such objection within 14 days of the receipt of such objection. Upon hearing, the burden shall be upon the plaintiff to show that there is a reasonable likelihood that the plaintiff will recover judgment including interest and costs on any amount equal to or greater than the amount of the attachment. Upon satisfying said burden, the plaintiff shall be enti-

tled to the attachment unless the defendant establishes to the satisfaction of the court that his assets will be sufficient to satisfy such judgment with interest and costs if the plaintiff recovers same. Such hearings shall not be bound by the rules of evidence. The court may appoint such masters, referee or magistrates as may be necessary to conduct such hearings.

2 Service of Attachment. Amend RSA 511:3 by inserting in line 2 after the word "officer" the following (the plaintiff, his attorney or any other person) so that said section as amended shall read as follows:

511:3 Service on Register. Real estate may be attached on a writ of mesne process by the officer, the plaintiff, his attorney or any other person leaving an attested copy thereof, and of his return of the attachment thereon, at the office or the dwelling house of the register of deeds of the county in which the real estate is situate.

3 Notice of Attachment. Amend RSA 511-A by inserting after section 5 the following new section:

511-A:5-a Additional Service Not Required. Notwithstanding any other provision of law, no additional service upon the defendant shall be required in order to perfect an attachment provided that a notice of intent has been served upon the defendant as provided in RSA 511-A:2.

4 Writ of Attachment. Amend RSA 509:3 by striking out said section and inserting in place thereof the following:

509:3 Direction. Writs returnable to the supreme or superior court shall be directed to the sheriff of any county or his deputy; provided, however that writs of attachment shall be directed to the sheriff, the plaintiff, his attorney or any other person.

5 Justice Writs. Amend 509:11 as amended by striking out said section and inserting in place thereof the following:

509:11 Justices' Writs. Writs issued by justices of municipal and district courts shall be under seal and directed to the sheriff of any county or his deputy or to any constable of any town in the county, or to either of said officers; provided, however, that writs of attachment shall be directed to the sheriff of any county, or to any such constable, or to the plaintiff, his attorney or any other person.

6 Form of Writ. Amend RSA 509:15 as amended by striking out said section and inserting in place thereof the following:

509:15 Attachment.

## THE STATE OF NEW HAMPSHIRE

.....ss. To the sheriff of any county or his deputy, or any other person:

(L.S.) We command you to attach the goods or estate of ....., of ....., in said county of ....., to the value of ..... dollars, and summon him, if to be found in your precinct, to appear at the superior court at ....., in said county, on the ..... Tuesday of ....., to answer to ....., of ....., in said county of ....., in a plea of ....., to the damage of the plaintiff ....., as he say ....., the sum of ..... dollars, and make return of this writ, with your doings therein.

Witness, ....., Esquire, the ..... day of .....,

.....Clerk.

7 Effective Date. This act shall take effect 60 days after its passage.

Sen. BRADLEY: The amendment is on page 21, 22 and 23. The original bill 676 was virtually the same bill that SB 10 introduced by Senator Bossie. We put some amendments on SB 10 in the Senate and passed it over to the House. For reasons that I don't understand and know the House refused to confus with those. I think it has something to do with this particular bill. What we have done here is very candidly to take SB 10 as it passed this House and substituted it for the house bill. So the amendment is precisely what we already passed in SB 10. This is one of those things where we have to figure out what the objections to the House are on our amendments, I don't know. I assume there is going to be a committee of conference on it.

Amendment adopted. Ordered to third reading.

HB 1141, establishing a New Hampshire right to privacy act. Ought to pass with amendment. Sen. Bradley for the committee.

## Amendment to HB 1141

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 359-B the following new chapter:

## CHAPTER 359-C

### Right to Privacy

359-C:1 Short Title. This chapter may be cited as the New Hampshire right to privacy act.

359-C:2 Purpose. The general court finds and declares as follows:

I. The confidential relationships between financial institutions, creditors and credit reporting agencies and their respective customers are built on trust and must be preserved and protected.

II. The purpose of this chapter is to protect the confidential relationship between financial institutions, creditors and credit reporting agencies and their respective customers and the constitutional rights of citizens inherent to that relationship.

359-C:3 Definitions. For the purposes of this chapter:

I. The term "consumer report" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized under RSA 359-B:4. The term does not include (A) any report containing information solely as to transactions or experiences between the consumer and the person making the report; (B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or (C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under RSA 359-B:15.



II. The term “consumer reporting agency” means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

III. The term “credit” means any permission granted to any person to defer payment of any debt, or to incur any debt and defer payment of such debt.

IV. The term “creditor” means any person who regularly extends, or arranges for the extension of, credit for which the payment of a finance charge is required, whether such credit is extended by means of any card, coupon book, or other device which may be used for the purpose of obtaining any money, property, labor, service, or other thing of value on credit, or by any other means.

V. The term “credit record” means—

(a) any information held by any creditor concerning—

(1) any person to whom such creditor extends any credit; or

(2) any person seeking to obtain any credit from such creditor; and

(b) any information held by any credit reporting agency concerning any person with respect to whom such agency is preparing, or has prepared, any consumer report.

VI. The term “customer” means any person who has transacted business with or has used the services of a financial institution, or credit reporting agency or for whom a financial institution has acted as a fiduciary.

VII. The term “financial institution” means—

(a) any bank, trust company, savings and loan association, building and loan association, homestead association, or credit union which is organized under the laws of any state or of the United States; and

(b) any other person organized under the banking laws of any state.

VIII. The term “financial record” means any information held by any financial institution concerning—

(a) any debit or credit to any deposit or share account with such financial institution; or

(b) any person who maintains, or has maintained, any such

account or who transacts, or has transacted, any other business with such financial institution.

IX. The term "investigation" includes, but is not limited to, any inquiry by a peace officer, sheriff, or county attorney, or any inquiry made for the purpose of determining whether there has been a violation of any law enforceable by imprisonment, fine, or monetary liability.

X. The term "investigative consumer report" means a consumer report or portion thereof in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

XI. The term "local agency" includes a county; city; town; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; or other local public agency.

XII. The term "person" means an individual, partnership, corporation, association, trust, or any other legal entity organized under the laws of this state.

XIII. The term "state agency" means every state office, officer, department, division, bureau, board, and commission or other state agency.

XIV. The term "supervisory agency" means—

(a) any authority of any state or of any political subdivision of any state which is required by law to examine or audit any financial record of any financial institution; and

(b) any authority of any state or of any political subdivision of any state which the United States secretary of the treasury by regulation determines to be exercising supervisory functions over any financial institution which are substantially similar to those supervisory functions exercised by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, the National Credit Union Administra-

tion, the Federal Reserve Board, the Comptroller of the Currency, or the Federal Communications Commission.

359-C:4 Access to Records.

I. Except as provided in RSA 359-C:11 and RSA 7:6-b, no officer, employee, or agent of a state or local agency or department thereof, in connection with a civil or criminal investigation of a customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings, may request or receive copies of, or the information contained in, the financial, or credit records of any customer from a financial institution, or credit reporting agency unless the financial, toll or credit records as described with particularity and are consistent with the scope and requirements of the investigations giving rise to such request and;

II. In any proceeding relating to such subpoenas, summons, or search warrants, the customer shall have the same rights as if the records were in his possession.

III. Nothing in this section or in RSA 259-C:7, 359-C:8, 359-C:9, or 359-C:10 shall require a financial institution or credit reporting agency to inquire or determine that those seeking disclosure have duly complied with the requirements set forth therein, provided only that the customer authorization, administration, administrative subpoena or summons, search warrant, or judicial subpoena or order served on or delivered to a financial institution, or credit reporting agency pursuant to such sections shows compliance on its face. The burden of proof to show compliance with this chapter shall be on the agency or body issuing such order.

IV. The financial institution, or credit reporting agency shall maintain for a period of 5 years a record of all examination or disclosures of the financial, or credit records of a customer including the identity and purpose of the person examining the financial, toll or credit records, the state or local agency or department thereof which he represents, and, where applicable, a copy of the customer authorization, subpoena, summons or search warrant providing for such examination or disclosure or a copy of the certified crime report received pursuant to RSA 359-C:11, II. Any record maintained pursuant to this paragraph shall be available at the office or branch where the customer's account is located during normal business hours for review by the customer upon request. A copy of such record shall be furnished to the cus-

tomers upon request and payment of the reasonable cost thereof.

359-C:5 Disclosure of Records.

I. Except in accordance with requirements of RSA 359-C:7, 359-C:8, 359-C:9 or 359-C:10, no financial institution, or credit reporting agency, nor any director, employee, or agent thereof may provide or authorize another to provide to an officer, employee, or agent of a state or local agency or department thereof, any financial, or credit records, copies thereof, or the information contained therein, if the director, officer, employee or agent of the financial institution, or credit reporting agency knows or has reasonable cause to believe that such financial, or credit records or information are being requested in connection with a civil or criminal investigation of the customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings.

II. This section is not intended to prohibit disclosure of the financial, toll or credit records of a customer or the information contained therein incidental to a transaction in the normal course of business in such financial institution, or credit reporting agency if the director, officer, employee or agent thereof making or authorizing the disclosure has no reasonable cause to believe that the financial, or credit records or the information contained in such records so disclosed will be used by a state or local agency or department thereof in connection with an investigation of the customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings.

III. A financial institution, or credit reporting agency which refuses to disclose the financial, or credit records of a customer, copies thereof or the information contained therein, in reliance in good faith upon the prohibitions of RSA 359-C:5, I, shall be liable to its customer, to a state or local agency, or to any other person for any loss or damage caused in whole or in part by such refusal.

359-C:6 Use Restricted. Copies of financial, or credit records or the information contained therein, including information supplied pursuant to RSA 359-C:11, II which are obtained by any state agency, local agency or supervisory agency may not be:

I. Used or retained in any form for any purpose other than



the specific statutory purposes for which the information was originally obtained; or

II. Provided to any other governmental department or agency or other person except where authorized by state law. If in the course of an investigation conducted pursuant to the provisions of this chapter, an officer, employee, or agent of a state or local agency or department thereof, discovers financial, or records indicating a possible violation of law which such agency is without statutory authority to investigate or prosecute, the information in such financial, or credit records may, in the discretion of the agency and unless otherwise precluded by law, be provided to the county attorney of the county in which such financial, or credit records were examined or to the attorney general.

359-C:7 Customer Authorized Disclosure.

I. A customer may authorize disclosure under RSA 359-C:4, I(a) if those seeking disclosure furnish to the financial institution, or credit reporting agency a signed and dated statement by which the customer:

(a) Authorizes such disclosure for a period to be set forth in the authorization statement;

(b) Specifies the name of the agency or department to which disclosure is authorized and, if applicable, the statutory purpose for which the information is to be obtained; and

(c) Identifies the financial, or credit records which are authorized to be disclosed.

II. No such authorization shall be required as a condition of doing business with such financial institution, or credit reporting agency.

III. Any officer, employee or agent of a state or local agency seeking customer authorization for disclosure of customer financial, or credit records shall notify the customer that the customer has the right at any time to revoke such authorization, except where such authorization is required by statute.

IV. An agency or department examining the financial, or credit records of a customer pursuant to this section shall notify the customer in writing within 30 days of such examination. Such notice shall specify the financial, or credit records which were examined and the reason for such examination.

359-C:8 Administrative Subpoena Summons.

I. An officer, employee, or agent of a state or local agency

or department thereof, may obtain financial, or credit records under RSA 359-C:4, I (b) pursuant to an administrative subpoena or summons otherwise authorized by law and served upon the financial institution, or credit reporting agency only if:

(a) The person issuing such administrative summons or subpoena has served a copy of the subpoena or summons on the customer; and

(b) The subpoena or summons includes the name of the agency or department in whose name the subpoena or summons is issued and the statutory purpose for which the information is to be obtained; and

(c) The customer has not moved to quash such subpoena or summons within 10 days of service.

II. Nothing in this chapter shall preclude a financial institution, or credit reporting agency from notifying a customer of the receipt of an administrative summons or subpoena.

359-C:9 Obtaining Records by Search Warrant. An officer, employee, or agent of a state or local agency or department thereof, may obtain financial, or credit records under RSA 359-C:4, I(c) only if he obtains a search warrant. Examination of financial, or credit records may occur as soon as the warrant is served on the financial institution, or credit reporting agency.

359-C:10 Obtaining Records by Subpoena.

I. An officer, employee, or agent of a state or local agency or department thereof, may obtain financial, or credit records under RSA 359-C:4, I (d) pursuant to a judicial subpoena or subpoena duces tecum only if:

(a) The subpoena or subpoena duces tecum is issued and served upon the financial institution, or credit reporting agency and the customer; and

(b) Ten days pass without notice to the financial institution, or credit reporting agency that the customer has moved to quash the subpoena. If testimony is to be taken, or financial, or credit records produced, before a court, the 10 day period provided for in this paragraph may be shortened by the court issuing the subpoena or subpoena duces tecum upon a showing of reasonable cause. The court shall direct that all reasonable measures be taken to notify the customer within the time so shortened.

II. A grand jury, upon resolution adopted by a majority of

its members, may obtain financial, or credit records pursuant to a judicial subpoena or subpoena duces tecum which upon a showing of probable cause, is personally signed and issued by a judge of the superior court.

III. Upon issuing such subpoena or subpoena duces tecum, the judge shall order the grand jury to notify the customer in writing within 30 days of such issuance; provided, however, that the judge may shorten the 30 day period, or upon a showing of good cause, may extend such period beyond 30 days, but not beyond the date on which such grand jury is to be discharged. The notice shall specify the financial, or credit records which were examined and the reason for such examination.

359-C:11 Exceptions. Nothing in this chapter prohibits any of the following:

I. The dissemination of any financial, or credit information which is not identified with, or identifiable as being derived from, the financial, or credit records of a particular customer.

II. When any police or sheriff's department or county attorney in this state certifies to a bank in writing that a crime report has been filed which involves the alleged fraudulent use of drafts, checks or other orders drawn upon any bank in this state, such police or sheriff's department or county attorney may request a bank to furnish, and a bank shall supply, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or county attorney for a period of 30 days prior to and up to 30 days following the date of occurrence of the alleged illegal act involving the account:

(a) The number of items dishonored;

(b) The number of items paid which created overdrafts;

(c) The dollar volume of such dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank and customer to pay overdrafts;

(d) The dates and amounts of deposits and debits and the account balance on such dates;

(e) A copy of the signature appearing on a customer's signature card;

(f) Date account opened and, if applicable, date account closed.

III. Subject to the limitations in RSA 359-C:6, the exam-

ination by, or disclosure to, any supervisory agency of financial, or credit records which relate solely to the exercise of its supervisory function. The scope of an agency's supervisory function shall be determined by reference to statutes which grant authority to examine, audit, or require reports of financial, or credit records or financial institutions, communications common carrier or credit reporting agencies.

359-C:12 Criminal Penalties.

I. Any person who wilfully or knowingly participates in a violation of this chapter is guilty of a misdemeanor.

II. Any person who induces or attempts to induce a violation of this chapter is guilty of a misdemeanor.

359-C:13 Costs. In any successful action to enforce liability for a violation of the provisions of this chapter, the customer may recover the cost of the action together with reasonable attorney's fees as determined by the court.

359-C:14 Injunction. In addition to any other remedy contained in this chapter or otherwise available, injunctive relief shall be available to any customer aggrieved by a violation, or threatened violation, of this chapter in the same manner as such injunctive relief would be available if the financial, or credit records concerning the customer accounts were in his possession. In any successful action by the customer, costs together with reasonable attorney's fees as determined by the court may be recovered.

359-C:15 Statute of Limitations. An action to enforce any provision of this chapter must be commenced within 3 years after the date on which the violation occurred.

359-C:16 Effect of Customer Waived. Except as provided in RSA 359-C:7, no waiver by a customer of any right hereunder shall be valid, whether oral or written, and whether with or without consideration.

359-C:17 Priority of this Chapter. Should any other law grant or appear to grant power or authority to any person to violate the provisions of this chapter, the provisions of this chapter shall supersede and pro tanto override and annul such law, except those statutes hereinafter enacted which specifically refer to this chapter.

359-C:18 Provisions Severable. If any provision of this chapter or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this chapter which can be effected, without the invalid provision or appli-



cation, and to this end the provisions of this chapter are severable.

2 Effective Date. This act shall take effect 60 days after its passage.

Sen. BRADLEY: Mr. President, this is a rather lengthy bill. The amendment is the entire bill. It starts on the bottom of page 23 and goes for several pages. Basically what this bill does is to set up the criteria under which people outside agencies can get access to your own private records in things like a bank or financial institutions in general. It sets up protections to insure that your private information about your finances isn't loosely disclosed. It is a somewhat and detailed lengthy bill. I have had the attorney general's office review it from the standpoint of creating any problems from law enforcement. The attorney general's office has indicated no problem with it. I talked with someone from the banking area this morning and they have not raised objections to it other than a typographical error at one spot.

Amendment adopted. Ordered to third reading.

HB 1130, relative to the dispensation of controlled drugs. Ought to pass with amendment. Sen. Bradley for the committee.

#### Amendment to HB 1130

Amend RSA 318-B:9, I as inserted by section 10 of the bill by striking out same and inserting in place thereof the following:

I. On Prescription. A pharmacist, in good faith, may sell controlled drugs exempt under the Comprehensive Drug Abuse Prevention and Control Act of 1970 and federal and drug laws from prescription requirements. A pharmacist may sell and dispense controlled drugs requiring prescriptions to any person upon the written prescription of a practitioner, provided it is properly executed, dated and signed by the person prescribing on the day when issued and bears the full name and address of the patient for whom or of the owner of the animal for which, the drug is dispensed, or upon oral prescription, in pursuance of regulations promulgated by the

secretary of the treasury of the United States, or his delegate, under the provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970, where applicable, provided said oral prescription is promptly reduced to writing by the pharmacist, stating the name of the practitioner so prescribing, the date, the full name and address of the patient for whom, or the owner of the animal for which, the drug is dispensed, and in all instances, the full name, address and registry number under the Comprehensive Drug Abuse Prevention and Control Act of 1970 or federal food and drug laws of the person so prescribing if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of 2 years so as to be readily accessible for the inspection of any officers engaged in the enforcement of this chapter. The prescription as to a controlled drug may be refilled pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970. The person refilling a prescription for a controlled drug shall record on the prescription the date of refill, the quantity dispensed, and his or her initials.

Sen. BRADLEY: Mr. President this is a fairly long but generally a housekeeping bill which is received support from the Commission of Pharmacy, the New Hampshire Veterinarian association, drug enforcement administration, U.S. Department of Justice, the New Hampshire Medical Society. Basically it brings our law more in line with the federal law on this and allows for a little bit more workable dispensation of drugs by pharmacists. The amendment which is on the bottom of page 32, the title of the amendment isn't there but if you look down at the bottom of 32 you can see a break and that is where this amendment starts, it goes over onto the next page. The amendment is simply an oversight that was supposed to have been put on on the original bill and then again in the house and wasn't and the pharmacists have asked us to put it on to clear up some technical question.

Amendment adopted. Ordered to third reading.

HB 739, relative to control of explosives. Without recommendation. Sen. Keeney for the committee.

Sen. Keeney moved that the words "ought to pass with amendment" be substituted for the words "without recommendation".

Adopted.

### Amendment to HB 739

Amend section 7 of the bill by striking out same and inserting in place thereof the following:

7 Acts Unlawful. Amend RSA 158:9-a (supp) as inserted by 1970, 45:1 by striking out said section and inserting in place thereof the following:

158:9-a Acts Unlawful.

I. No person shall purchase, store, or transport or attempt to purchase, store or transport any high explosive without first obtaining a license therefor as provided in RSA 158:9-b.

II. No person shall sell any high explosive to another unless the purchaser exhibits a license to purchase obtained as provided in RSA 158:9-b. In such case, the seller shall record the name and address of the purchaser, the license number, the date of the sale, the type and quantity of explosive sold, the serial number of said explosive, if any, and the purpose for which it is to be used. Said record shall be kept by the seller for a period of 2 years.

III. No person shall store or keep any high explosive unless such explosive is stored or kept in accordance with regulations pursuant to RSA 158:9-f.

IV. Notwithstanding the provisions of paragraph I, any employee of any person, firm, corporation or association whose usual business requires the use of any high explosive may transport the same in the course of his employment if the employer has obtained a license in its name as provided in RSA 158:9-b.

V. Notwithstanding the provisions of paragraph II, any employee of any person, firm, corporation or association whose usual business requires the use of any high explosive may purchase the same in the name of his employer if said employer has obtained a license in its name as provided in RSA 158:9-b. In such case, the seller shall record the name,

address and license number of the employer, the name and address of the employee, the date of the sale, the type and quantity of explosive, the serial number of the explosive sold, if any, and the purpose for which it is to be used. Said record shall be kept by the seller for a period of 2 years.

VI. For the purposes of this section, the term "high explosive" shall mean and include dynamite, any explosive compound of which nitroglycerin forms a part, fulminate in bulk or dry condition, blasting caps, detonating fuses, blasting powder, blasting agents or other similar explosive but shall include black powder used in sporting rifles purchased or sold in quantities of 50 pounds or less or stored in quantities of 5 pounds or less.

Amend RSA 158:9-c as inserted by section 9 of the bill by striking out same and inserting in place thereof the following:

158:9-c Fees and Disposition.

I. The fee for licenses issued under RSA 158:9-b (I) shall be \$4.

II. The fee for licenses for explosives storage facilities as defined by federal regulation in 27 CFR 181 shall be as follows:

(a) for a type I storage facility, a fee of \$10;

(b) for a type II outdoor storage facility, a fee of \$10, and for a type II indoor storage facility, a fee of \$1;

(c) for a type IV outdoor storage facility, a fee of \$5, and for a type IV indoor storage facility, a fee of \$1;

(d) for a type V outdoor storage facility, a fee of \$5, and for a type V indoor storage facility, a fee of \$1;

(e) there shall be no license required for a type III storage facility.

III. The fee for licenses issued under RSA 158:9-b, III shall be \$10.

IV. All fees received under this section shall be used for administration and enforcement, any excess to be deposited as unrestricted general fund revenue.

V. The state, county, or municipal governments or units thereof shall be exempt from the payment of license fees under this chapter.

Amend section 11 of the bill by striking out said section and inserting in place thereof the following:



11 Penalties. Amend RSA 158:9-e (supp) as inserted by 1970, 45:1 as amended by striking out said section and inserting in place thereof the following:

158:9-e Penalties.

I. Any person convicted of violating the provisions of RSA 158:9-a, I and II shall be guilty of a misdemeanor for first and second offense and of a felony for any subsequent offense.

II. Any person convicted of violating the provision of RSA 158:9-a, III or regulations promulgated pursuant thereto, shall be guilty of a misdemeanor for first and second offense and of a felony for any subsequent offense.

III. Any person convicted of larceny of any high explosive as defined in RSA 158:9-a, IV, shall be guilty of a class B felony.

IV. The director, or his designee, shall have the authority to, at the owner's expense, require the immediate removal to a safe and secure location, any explosive found to be kept in violation of any rule or regulation covered under RSA 158 provided that said violation constitutes an immediate threat to public safety. The director shall also have the authority to suspend or revoke any license issued under RSA 158:9-b when it has been determined by a hearing board, the members of which shall be designated by the commissioner of safety, that a violation of any of the requirements of RSA 158 has occurred.

Amend RSA 158:9-f as inserted by section 12 of the bill by striking out same and inserting in place thereof the following:

158:9-f Rules and Regulations; Enforcement. The director of the division of state police, department of safety, may promulgate such reasonable standard rules and regulations relative to the sale, storage, handling and transportation, inspection, administration and use of explosives, including provisions relative to the purchase of insurance by commercial entities. The director shall enforce all laws of the state relative to the sale, storage, handling and transportation, inspection and administration and use of explosives and rules and regulations promulgated under this section. The director shall assist the several counties, cities, towns, village districts and precincts in supervising and enforcing local laws, bylaws and ordinances where existent, relative to the storage, transportation, sale and use of explosives. The powers

and duties authorized by this section shall not be restricted by the provisions of RSA 106-B:15.

Amend the bill by striking out section 14 and inserting in place thereof the following:

14 Possession. Amend RSA 158:9 (supp) as amended by striking out same and inserting in place thereof the following:

158:9 Possession of Explosives: No person shall leave, deposit or have in his custody or possession in any building used in whole or in part as a dwelling house, tenement house, apartment building, office building, shop or store, or in or within 500 feet of any building used in whole or in part as a school, theater, church, public building or other place of public assembly, any high explosive, such as and including dynamite, any explosive compound of which nitroglycerin forms a part, fulminate in bulk or dry condition, blasting caps, detonating fuses, black powder or other similar explosive, except as may be permitted by regulations issued pursuant to RSA 158. Whoever violates the provisions of this section shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

Amend the bill by striking out section 6 and renumbering sections 7 through 12 to read as 6 , 7 , 8 , 9 , 10 and 11 respectively.

Amend the bill by striking out section 13 and renumbering sections 14 and 15 to read as 12 and 13 respectively.

Sen. KEENEY: This bill details the authority of the state police to enforce regulations of explosives under the direction of the fire marshall's office. The original copy that you have was substantially amended by the House and the House version is on page 2498. The Senate amendment which you have just received is in effect amending the House version in greater detail. I think I have to talk about the whole thing at once. The state police would be given the duty to enforce laws on explosives, storage handling and transporting of them and to assist the local officials in carrying out, against any danger. The House amendment expanded on these regulations by declaring that a permit would have to be given, a fee system was set up, certain exemptions were added in and

penalties. The Senate amendment which was presented to us in form by the state police at the Senate hearing, further defined the authority of the state police in managing the whole bit on explosives. It defined high explosive, it adds in a section covering employees of companies which use explosives regularly, it includes the selling of explosives, and the necessary precautions and regulations. It changes the penalty such that the first and second violations would be misdemeanors and only after the second violation, would a felony charge be imposed. It adds in a class B felony penalty for larceny of explosives. It gives further authority to the state police to promulgate other regulations and under that may be considered insurance necessary. It stipulates that explosives shall not be kept in houses or within 500 feet of schools, churches, public schools or public buildings etc.

Sen. POULSEN: Senator Keeney, I didn't see it on the bill, is it still necessary to have a federal license?

Sen. KEENEY: I believe it does but the bill doesn't deal with that aspect.

Sen. POULSEN: This license as far as you know is an addition to the federal license?

Sen. KEENEY: Is an addition and is really regulating more firmly around state laws.

Sen. SANBORN: Senator I have quite a few people in my area that like to load their own ammunition. How is this going to affect them. They are worried about this, whether they can have some powder down in the cellar, or out in the shed where they do their loading operations.

Sen. KEENEY: You're referring to black powder.

Sen. SANBORN: Black powder, it can be smokeless powder, whatever type of powder that they are playing with.

Sen. KEENEY: There are exemptions for black powder. It is my understanding that you can keep five pounds in a container inside but anything more than that would have to be outside and the limit being at one time 50 pounds.

Amendment adopted. Ordered to third reading.

HB 1030, concerning neglected and delinquent children and persons in need of supervision. Without recommendation. Sen. Bradley for the committee.

Sen. Bradley moved that the words "ought to pass with

amendment” be substituted for the words “without recommendation.”

Adopted.

#### Amendment to HB 1030

Amend section 8 of the bill by striking out the same and inserting in place thereof the following:

8 Effective Date. This act shall take effect July 1, 1979.

Sen. BRADLEY: Amending the effective date to July 1, 1979 and the sole purpose of that is to again, set up a committee of conference. This bill which seems to be okay, but lays out a number of rights which a juvenile has when he is in a juvenile proceeding. Most of the rights appear to us to be probably already the law but that we have some questions about a few of them and we really haven't had time to grapple with it and we are just asking for this particular amendment which will make it clear that the bill won't go into effect right away even if something goes awry. I have talked with the primary sponsor, Representative Cornelius and he is agreeable to having a committee of conference.

Amendment adopted. Ordered to third reading.

HB 1185, concerning purity of elections. Ought to pass with amendment. Sen. Jacobson for the committee.

#### Amendment to HB 1185

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

concerning purity of elections and a voter registration form.

Amend the bill by striking out section 8 and inserting in place thereof the following:

8 Voter Registration Form. Amend RSA 55 by inserting after section 14 the following new section:

55:14-a Voter Registration Form. A standard registration



application form shall be used throughout the state. The form shall be the same for in-person or absentee registration except that the absentee registration shall include a return envelope. The registration form shall be 4 inches by 6 inches and shall be made in triplicate. The original copy shall be retained by the supervisors of the checklist, the first copy shall be forwarded to the supervisors of the checklist of the city or town of the applicant's last voting residence if said address was in New Hampshire, and the second copy shall be sent to the town or city clerk. The secretary of state shall prepare the voter registration form which shall be in substantially the following form:

### VOTER REGISTRATION CARD

(Please print or type)

1. Name .....  

Last
First
Middle Initial
2. Party Affiliation (if any) .....
3. Address .....  

Street

City
County
Zip
4. Birth Place .....  

City
State
5. If a naturalized citizen, give name of court where and date when naturalized .....
6. Date of Birth .....  

Month/Date/Year
7. Date of registration .....
8. Place last registered to vote, if not a new registrant .....

I hereby swear, under penalty of perjury that the answers to the questions above are true and correct to the best of my knowledge and belief.

.....  
 (Signature of Applicant)

9 Effective Date. This act shall take effect 60 days after its passage.

Sen. JACOBSON: Mr. President, one of the things that was done on these election bills was to try to do them by the various chapters of the RSA. Therefore, sometimes these bills have 4 or 5 different items that are oftentimes unrelated within the context of the bill. I hope that someday the legislature will authorize a complete recodification. That we revise the RSA so that they are more congruent than they are presently. Anyway, HB 1185 deals with the purity of elections. The first section deal with the affidavit with regards to a challenge of a voter and all it does is eliminates the business about the right to read and also eliminates the date of 1904 which is no longer valid. The second section deals with the affidavit in contested elections and it adds the last sentence which says that all affidavits shall be retained until the contest is settled and all appeal periods have in fact expired. The third section deals with the right to file a written complaint that the law against bribery in elections has been violated. The present statute allows 30 days for that written complaint to be made by any five voters. The HB 1185 changes that to 10 days. Then in section 5 and 4 it eliminates the sentence with regards to the verification of, reverification of the voters on the checklist and it eliminates the sentence in one which says that if a majority of the supervisors of the checklist know the person to be a resident that that amounts to verification. It moves the sentence which says also if the majority of the supervisors of the checklist have personal knowledge that the person is no longer in town he may be removed from the checklist so the net effect of that is to place the basic initiative upon the voter to see that he every ten years is on the checklist. The most important part of that verification I think if Senator Trowbridge will recall, is an amendment that we put on some years ago, that if you voted in the last biannual election that in fact counts you to be on because if we had not done that we would have a horrendous situation. So every odd year beginning with one we have every ten years, we have reverification so that it does place, if this bill passes, a little greater burden on the persons themselves. The final section relates to a copy of an RSA that is to be posted. At the present time it is to be posted but it doesn't say when and what this statute does in fact, that it must be posted. It has to do with the posting of a challenge of a voter and it must be posted prior to the opening of the polls. That's what HB 1185 does. There is an amendment to

HB 1185 which is in fact the voter registration certificate which was originally senate bill 76.

Amendment adopted. Ordered to third reading.

HB 670, relative to counting ballots at elections. Ought to pass with amendment. Sen. Jacobson for the committee.

#### Amendment to HB 670

Amend RSA 59:69, I as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

I. Immediately after the polls are closed the ballots shall be examined and the votes for the several candidates and on any questions submitted shall be counted by the town clerk, the selectmen and the other election officials herein provided under the supervision of and in the presence of the moderator who, himself, shall not do the actual counting. The moderator may at any time during the counting inspect the ballots as they are being counted by the election officials. The counting shall be public, but within the guardrail, and shall not be adjourned nor postponed until it shall have been completed. The whole number of ballots cast for each person and on each question submitted to the voters shall have been announced publicly. While being counted no ballot shall be placed within 4 feet of the guardrail which forms the enclosure in which the counting is done; and during such time only the aforesaid officers shall be allowed within said enclosure.

Amend RSA 59:69, II (a) and (c) as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

(a) No person, other than the moderator who shall not count votes, otherwise authorized to be within the guardrail shall remain within the guardrail during the counting of the votes for the office for which that person is a candidate.

(c) Any election official who is a candidate shall disqualify himself as provided in RSA 59:36-a and the moderator shall appoint an assistant who shall take the oath of office in the

same manner as, serve in the same capacity as, and have all the powers of the election official who is disqualified.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Candidates Prohibited from Working at a Polling Place. Amend RSA 59 by inserting after section 36 the following new section:

59:36-a Disqualification of Certain Officials. Any election official, elected or appointed, whose name appears on a ballot for an elective position, other than a position of an election official shall be disqualified from performing his duties as election official in said election and there shall be a vacancy in said position for that election which shall be filled pursuant to the applicable provisions of law.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. JACOBSON: Mr. President, members of the senate, the amendment to HB 670 appears on page 15 but you wouldn't know it, because there is no indication of it but it begins after that sentence which begins with 9, effective date this actually takes effect, 60 days after its passage. That actually relates to HB 1185 and there should have been a heading there where it begins amend RSA 59, 69. And that is the amendment. First let me say what the bill does. The bill essentially provides a revised procedure for counting ballots. It in effect eliminates anyone who is a candidate for election from counting ballots. For example, I happen to be a selectman of the town of New London and therefore an election official but the time that I run for office I cannot count ballots. That is in essence what it does. Now the amendment. The first part of the amendment, the bill was written incorrectly. The original statute says that the moderator shall do the counting and the selectmen, town clerk and other officials shall be in the presence of the moderator counting and then any other election official has the right to inspect the ballot. The amendment when the bill was written, it changed it around so that the moderator shall do the supervising but shall not count ballots himself but it failed to turn around the next sentence about any other election officer inspecting, so



it didn't make sense. So the word moderator is substituted for any other election officer with respect to inspecting. The second part of the amendment drops the last part of a sentence in paragraph 2, section a which did read if that person is a candidate for a local office at that election. That portion is really redundant and unnecessary so that the paragraph will read no person other than the moderator who shall not count votes otherwise authorized to be within the guardrail shall remain within the guardrail during the counting of the votes for the office for which that person is a candidate. So that includes everybody. Then there is a further amendment, the bill as it came from the House said any election official may appoint a substitute if he is disqualified. The committee felt that that was a dangerous position to be in because I might appoint my wife and she might be pursuing my interests. Therefore the amendment says that those persons who are disqualified because they happen to be running for office shall be, the substitute shall be appointed by the persons who have the authority to do the appointing in the case of absence or vacancy as provided in the statutes.

Sen. TROWBRIDGE: Every two years, every moderator of the state is up for reelection, does that take care of it?

Sen. JACOBSON: Yes.

Sen. TROWBRIDGE: Half of the time you can't be a moderator because you're being elected.

Sen. JACOBSON: Senator that has been taken care of in two ways. One, in the already passed HB 772 there is an exception, that a person who is an election official must be present during the voting process. Otherwise it would be ridiculous when you're on the ballot. The other thing is that in this bill the moderator doesn't count the ballots but supervises it and therefore he fulfills his responsibility in a supervisory capacity but he does not count the ballots.

Sen. TROWBRIDGE: So every two years the moderator will not be counting the ballots. What happens in the off years?

Sen. JACOBSON: He does not count the ballots at all. He becomes a supervisory person over the entire counting process.

Sen. ROCK: Senator Jacobson in the final explanation wherein you state should a substitute be required, a substitute could not be appointed by the individual directly concerned because you used the example of your wife, but he

would be appointed by others. My question is, what if the others are the ones that are running against the candidate, could that be possible, they could substitute, they would be pursuing their interests?

Sen. JACOBSON: I suppose theoretically that might be in the realm of possibility. You mean for example if I am a selectman and the appointing authority belongs to the remaining two selectmen if they were opposed they would appoint an opponent of mine? I presume that is within the realm of possibility. But there is no way to get that pure.

Sen. LAMONTAGNE: Senator you have just said that the moderator will not count the ballots. What about the supervisors?

Sen. JACOBSON: Supervisors do not count the ballots at all. They are prohibited from counting ballots by another statute.

Amendment adopted. Ordered to third reading.

### SUSPENSION OF RULES

Sen. Keeney moved that the rules of the Senate be so far suspended as to allow the introduction of a committee report on HB 1193 with only one day's notice of hearing and not previously advertised in the journal.

Adopted.

HB 1193, reinstating Save the Mill Society as a voluntary corporation. Ought to pass with amendment. Sen. Keeney for the committee.

### Amendment to HB 1193

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

reinstating Save the Mill Society and Tri-State Collectors' Exhibition as voluntary corporation.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Reinstatement of Certain Charters. The charters, certificates of incorporation and articles of agreement, as amended, of Save the Mill Society and of Tri-State Collectors' Exhibition are hereby reinstated retroactively to December 31, 1975, and the Save the Mill Society and the Tri-State Collectors' Exhibition are reinstated as voluntary corporations retroactively to December 31, 1975, upon the condition that Save the Mill Society and Tri-State Collectors' Exhibition pay any fees in arrears and file with the secretary of state any returns required by law and statements under oath, filed by their respective clerks or secretaries, stating that they desire that their charters, certificates of incorporation and articles of agreement, as amended, shall remain in full force and effect.

Sen. KEENEY: The amendment that was passed out on HB 1193 is an additional society that failed to reinstate their incorporation papers. HB 1193 was entered through the joint rules committee into the house. It is sponsored by the four representatives from Laconia area and Senator Gardner from the Laconia area. The Save The Mill Society in Laconia simply failed to file their papers as a corporation this year and this is an emergency attempt to have the society reinstated. As I say the amendment to it is for another Concord-based society which we feel reasonably certain, although it has the same problem it is entitled to a reinstatement.

Amendment adopted. Ordered to third reading.

Sen. Jacobson moved that HB 971 be taken from the table. Adopted.

HB 971, removing minor officials from the biennial ballot.

Sen. Jacobson moved an amendment to HB 971.

#### Floor Amendment to HB 971

Amend the bill by striking out section 4 and renumbering section 5 to read as 4.

Sen. JACOBSON: Mr. President, I move the following amendment and it has not been distributed because all it does is remove section 4. Those of you that were in the chamber when we discussed it, a question arose as to whether it should be a partisan, or non-partisan ballot and who was to determine it. Through one member of the Senate, it had the words selectman, which of course would be a violation of the law. I have checked this out and what the amendment does is take out section 4 because there is already a statute, 5973 which allows the town to adopt the non-partisan or partisan ballots. So that the town can make a decision with respect to whether they want it partisan or non-partisan and the easiest way is to leave it to a town decision under 5973. There is another section that relates to the cities procedure. So that whatever process a city or town does, if they have a partisan situation then the supervisor of the checklist and the moderator will be elected on a partisan basis, if they are non-partisan basis the supervisor of the checklist and the moderator will be elected on a non-partisan basis. That seemed to be the most direct solutions to the problem.

Amendment adopted. Ordered to third reading.

Sen. Hancock moved that HB 44, HB 603, HB 929 be discharged from the committee on Executive Departments.

Sen. Bradley moved to challenge the ruling of the Chair that the motion to vacate is not in order at the present time.

Sen. Fennelly moved the previous question.

Adopted.

Senator Bradley requested a roll call. Seconded by Sen. Rock.

The following Senators voted yea: Trowbridge, Keeney, Hancock, Preston, Foley, Smith, Bradley, Blaisdell.

The following Senators voted nay: Lamontagne, Poulsen, Gardner, Bergeron, Jacobson, Saggiotes, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown, Fennelly, Downing.

8 yeas 15 nays



Motion failed.

Motion to discharge.

Sen. Fennelly moved the previous question.

Adopted.

Sen. Hancock requested a roll call. Seconded by Sen. Downing.

The following Senators voted yea: Smith, Bradley, Jacobson, Blaisdell, Trowbridge, Keeney, Hancock, Preston, Foley.

The following Senators voted nay: Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown, Fennelly, Downing.

9 yeas 14 nays

Motion failed.

Sen. Sanborn in the chair.

### SUSPENSION OF RULES

Sen. Preston moved that the rules of the Senate be so far suspended as to allow all bills be placed on third reading and final passage and that all titles be the same as adopted and that they be passed at the present time.

Adopted.

### Third Reading and Final Passage

HB 1086, changing the name of the New Hampshire home for the elderly to the Glencliff home for the elderly; and transferring the Glencliff home for the elderly from the division of public health to the division of mental health and relative to tax exemption for Salemhaven, Inc., a community nursing home project for the needy and certain other non-profit organizations.

HB 343, relevant to absentee voting.

HB 49, relative to the procedures for the filling of vacancies in certain elected offices.

HB 772, prohibiting candidates for any elective position

other than a position as an election official, from working within a polling place.

HB 805, providing an opportunity for absentee balloting at any election which uses an official ballot.

HB 29, amending the election laws relative to the qualifications of a candidate filing for certain political offices.

HB 827, relative to recounts and disqualifications of candidates in primary elections.

HB 779, relative to legal guardianship of the developmentally disabled.

HB 609, establishing public guardian officers and relative to professional guardians.

HB 814, amending the eminent domain procedure act.

HB 787, relative to mental health evaluations of minors before the juvenile court.

HB 676, relative to prejudgment attachments.

HB 1141, establishing a New Hampshire right to privacy act.

HB 1130, relative to the dispensation of controlled drugs.

HB 739, relative to control of explosives.

HB 1030, concerning neglected and delinquent children and persons in need of supervision.

HB 1185, concerning purity of elections and a voter registration form.

HB 670, relative to counting ballots at elections.

HB 1193, reinstating Save the Mill Society and Tri-State Collectors' Exhibition as voluntary corporations.

HB 971, removing minor officials from the biennial ballot.

Adopted.

## COMMITTEE REPORTS

HB 314, improving procedures for the medical board for supervising medical practices and stabilizing medical liability claims. Ought to pass. Majority—Sen. Rock. Ought to pass with amendment. Minority—Sen. Bossie.

Question of ought to pass.

Sen. ROCK: HB 314 is of critical importance if we are to continue quality medical care at an affordable cost in the state of New Hampshire. The need for this bill has been brought on by a tremendous number of claims and a tremen-

dous increase in the size of claims against hospitals, against physicians, and against other medical care providers over the past several years. Now I think we are well aware that this is not a problem that the people in the hospitals, the doctors and physicians in the hospitals of New Hampshire alone have been facing. In some areas of the country, hospitals have threatened to close and doctors have gone on strike to dramatize the need for a solution to the problem which has been come to be known as "Medical Liability Problems". In the committee hearings we heard tales of horror in the number of increases in claims against doctors, and I'd like to give you some facts on that. The New Hampshire Medical Society's own jurisprudence committee claims jumped from 6 in 1966 to 45 in 1975 and the number of claims against doctors and hospitals went up from 13 in 1968 to 44 in 1973—that's the last year for which figures were available. As a consequence of this situation, doctors' liability insurance rates in New Hampshire have gone up as much as 700% in some cases. And insurance rates for our local hospitals have also climbed tremendously. In some cases these increases have gone up as much as 600'. And I speak from a personal knowledge on that, as I'm a member of the advisory board of St. Joseph's Hospital, and Sen. McLaughlin who is a member of the Board of Directors of the same hospital can attest to the grave and serious and financial problems that the cost of the increases in insurance is costing these hospitals. Now, this means that thousands and thousands, literally, hundreds of thousands of dollars in the state, hospitals have had to raise by either increasing their rates, or by cutting their services just to handle the medical liability problems. I'm sure there are some who would say today that these rate increases are "rip-offs" by the insurance industry. But, frankly, members of the Senate, the facts do not support that charge. Information was furnished to the Committee on Insurance of the New Hampshire Senate by the N.H. Insurance Department that shows that insurance companies have not been reaping great profits from Medical Liability Insurance. Even worse than the matter of cost is the availability of liability insurance for the doctors. It has been more than just difficult—it has been hard to get. Under legislation Senator Bergeron sponsored which passed two years ago, the insurance Commissioner set up a Joint Underwriting Association to see that insurance would at least be available.

The question of affordability was another thing. At that time there was general agreement that it was only a temporary measure and that there would have to be something else done—there would have to be more done in the future in the next Session of the Legislature. In that same bill two years ago, we set up an Interim Study Committee to review what those steps should be. And that interim study committee recommended the adoption of 314. So I wanted you to know the history of this bill, how it was started, and that it is not just some “fly-by-night” piece of legislation, it had its inception here in the Senate with Senator Bergeron, it followed the processes, and the Interim Study Committee recommended the adoption of HB 314. The bill approaches the problem in a balanced way, and I hope that the senate realizes that it does not single out the doctors as a favorite group. As a matter of fact, this bill, if you will read the beginning of it, imposes very heavy and new responsibilities on the Medical profession. It is an attempt to cut down on the number of claims being made against them and against hospitals. Specifically, the bill is designed to keep up the quality of medical care in the state, by expanding the authority of the State Board of Registration. And it does it in 6 ways. I’d like to just capsuleize them for you if I may. Number one, it modernizes and clarifies specific licensing requirements. Number two, it requires physicians to show that they have participated in educational programs improving their situation for re-licensing on a continuing basis every three years. They have to demonstrate that—it requires them to show that they participated. It requires that courts, the insurers, the hospitals, and the professional societies to report instances of alleged medical injury or professional misconduct to the Board of Registration, and I think that’s a tremendously important part of this bill. It clarifies and modernizes the grounds for disciplinary action against doctors. It establishes 6 distinct methods by which the Board can discipline the physician, and then, the “teeth”, it authorizes the Board to deny licenses to doctors who have been subjected to disciplinary action in another state or county. Now, some would say, now that’s fine let’s do that and not do anything else and we’ve taken care of the prob-



lem. No, we haven't. We've done half of the baking of the cake. And if we're going to have a product that is acceptable to all, you've gotta continue the process. Now we also have seen, we've gone through the Legislative Budget Assistant's office on this matter to make sure that we don't make the mistake that they made in Massachusetts. In Massachusetts they didn't properly fund the loading of the responsibilities on their Board. They didn't give them the resources to do the job. Now we've done that job. Because there's no question that there's going to be an increase level of activity on the Board of Registration in Medicine if this bill passes. The bill does not make the Massachusetts mistake, it requires the Board to set its fee high enough to produce 125% of its net operating expenses. And the reason we've done that, is because by statute we allow expenditures of up to only 80%. And 80% here is the reciprocal of 125% in Massachusetts. This bill stabilizes the law of governing law suits against doctors, against hospitals, and medical care providers, and it adds some new provisions to the law. That aspect of the bill is not designed to deprive anybody of a legitimate claim against a doctor or a hospital. And I asked that question in the hearings several times, "Is there anything in this bill that would deprive a person of bringing a claim?" And time and again, I got the answer, "No." Specifically the bill does these things—for the first time it states clearly that the burden of proof or what the burden of proof is in a medical liability case. Essentially, it codifies common law. Secondly, it establishes rules governing expert testimony, including a standard which would allow testimony by an expert witness whom the court finds competent and duly qualified to render or supervise equivalent care, barring contingent fee witnesses. You will hear a great deal of discussion today about statute of limitations. This bill returns the statute of limitations to what it was in 1969. That statute of limitations is two years. But, there's a special provision for minors. They would have at least until the age of ten to bring the claim. So the two year limitation on the statute for those minors until age ten would not be put into effect. It specifies the damages recoverable by placing no limit, and hear that well, no limit on damages for economic loss, but it does limit damages for pain and suffering to \$250,000 and providing for procedure for periodic payment of future damages in order to insure that the money will be available to an injured person when

it's necessary. I'd like to explain what I mean by economic loss versus pain and suffering. And, I think one of the examples I might use would be a person who would be first violinist in a symphony orchestra. Obviously, the use of his fingers of his left hand are of paramount importance to him. The courts would decide that since he could not play his violin as first violinist in the symphony with the loss of one or two fingers on the hand, that's an economic loss. And there is no limit on the economic loss—they decide how much the man would be earning a week, how many years he would be working, and what he could earn in that period of time. That's economic loss. The limit of \$250,000 would be the limit that a person could recover for pain and suffering that went with the loss of the fingers. How much pain was involved, how much suffering, upper limits—\$250,000. No limit on the economic loss to the same person. And I think an important addition of the bill is that it sets up a sliding scale for fees for the lawyers that would govern a court—they could permit additional specific fees in certain cases. But it does set up a sliding scale for contingent legal fees. Now why do we need something like that. One of the reasons could be very well demonstrated by a recent case that happened here in New Hampshire. There was a court case against a hospital and the award by the court was \$1.5 million. And the legal fee in that case was \$½ million. Now this would set up a contingent fee, based on a sliding scale. The bill also continues in existence the Committee to Study Medical Reparations, adds 2 members to represent hospital management, charges the Commission with reviewing the effects of the legislation in relating to improving availability of adequate liability insurance. Now, Mr. President, with your permission, I'm going to anticipate a few questions and I'm going to try to answer them in the minds of the Senators as to "Does this bill set up doctors as a privileged class?" No. The answer is clearly, no. The bill imposes major obligations on the physicians including annual review of their license, completing continuing education requirements every 3 years, required reporting by the courts, hospitals, insurance companies and professional societies of cases involving medical injury or misconduct and there is no other licensed profession in the state that's subject to those requirements. Senator Rock, isn't it true that doctors make a lot of money and it doesn't make any difference to them? I don't know as there

aren't some doctors who make a lot of money, but there are a lot of doctors in New Hampshire that don't make all that much money. I know ole' Doc Thibedeau in Nashua doesn't make all that much money. But let's talk about another part of this bill. The stabilizing effect that it will have on our community hospitals. That's more important than any single doctor or group of doctors. Because the costs of the hospitals falls on all of us. But the cost of the doctors falls on those who use them. The hospitals are the ones who are facing tremendous costs to cover their medical liability. And I again speak to the hospital to which I know the most, St. Joseph's hospital in Nashua. Every day of care you're in St. Joseph's hospital in Nashua, you can pay \$6 a day for one thing. To cover the cost of insurance. Because of the skyrocketing costs that they have been faced with and they're finding it harder to find a place to place the insurance. So we're not looking at the aspect of doctors making a lot of money and can afford malpractice insurance rates, we're looking at much more than that. Now let's answer the question of 2 years being too short a time. Up until 1969, the statute of limitations in New Hampshire was 2 years. We're going back to that. Most other states have enacted either a 2 or 3 year limitation period. And records will show that medical injury claims surface within 2 years after treatment. So, I believe that the 2 year period is reasonable. Okay, how about having a 2 year statute of limitations to all professions, not just doctors. This 2 year limit of statute of limitations does not apply only to doctors. It applies to hospitals, physicians' assistants, medex people, nurses, clinics, non-profit home health care agencies, such as Salemhaven, that Senator Downing spoke of yesterday. These other people in organizations have demonstrated a problem in dealing with the matter of liability, but no other group or profession came to the committee or the legislature as a whole to demonstrate similar problems. For instance, if and when Senator Bossie's legal profession needs similar help, I think the legislature should and will hear from them. There are those who would say the statute of limitations should not apply to minors at all. Well, I've tried to make it clear that this bill does set up a special rule for minors giving minors up to age ten to bring suit for anything, anything at all that happened prior to age eight. No matter whether it was a birth, or early childhood. We now have in the present law, an exposure of up to 20

years and that's just too long to enable anyone to defend a case in court fairly. What they refer to in the legal profession as the "long tail" has been the primary source of the insurance rates going through the ceiling. And also we know today that suits are brought on behalf of children by their parents. There is no need to provide additional time when balanced against the problems the additional time period creates. There may be in the minds of some the question that this bill gives doctors the right not to testify against themselves in malpractice cases. This is false. The bill in no way prevents a doctor or anyone from being called as a witness to testify about what he did or observed or what actually happens in a given case. Now all this bill does is allow medical care providers not to be forced to give expert opinion testimony against themselves. Where they haven't given expert opinion testimony in their own favor. If they don't give expert testimony on behalf of themselves, you can't force them to give expert witness testimony against themselves. That doesn't mean in any sense that they can avoid telling what they actually did, because that would not involve expert opinion testimony. It does mean that medical care providers will not be trapped into responding to exaggerated, you know the hypothetical questions we get on the Senate floor, well, what if . . . the ifs that are coming before us in this debate are hypothetical. This prevents a doctor from being trapped into that exaggerated hypothetical case which he may be asked in the attempt to substitute for legitimate expert testimony. To those who would ask the question, "will this bill limit a person's right to recover damages against a doctor?", the answer is, the bill is not designed to interfere with recovery of damages by people with legitimate claims. The bill imposes one limit and that is on damages for non-economic loss. Pain and suffering I spoke about. The limit for pain and suffering is a quarter of a million dollars, but there is no limit for economic loss, such as expenses, lost wages, things like that. I don't know whether you're familiar with what the fee for a contingency for expert witnesses is or not, but let me try to explain it. The contingent fee for an expert witness would be where a person would come in, act as a witness, and be given a chunk of the take if the claim is found to be valid—and the bigger the claim, the bigger the award, the bigger the contingent fee for the witness. The accuracy of a witness's testimony can be influenced if his wit-



ness fee depends on which side wins the case. I think we all understand that it's unethical for a lawyer to agree to compensate a witness depending on the outcome of the case. Nevertheless, there have been instances in N.H. where such arrangements have been made and the only remedy would be to pursue the lawyer for unethical conduct. This bill attacks that problem directly by establishing that a contingent fee witness would simply not be permitted to testify. Why shouldn't the court order the defendant in the case to pay interest on a claim if it's to be paid over a period of time? I use the example of a youngster who might be severely injured in an automobile accident at an early age and the court would decide that the economic loss was so much, the pain and suffering was a quarter of a million dollars, and that because that person would earn the money over a period of time, they would allow the claim to be paid over a period of time. We've all heard of the windfall cases where someone gets a big settlement and they go out and they buy a new house, 4 cars, and before you know it, the money that was supposed to be left for the youngster and his pain and suffering is gone. This doesn't say that they can't set it up. The bill authorizes the court to set up a schedule of periodic payments on just and equitable terms to authorize inclusion of interest in an appropriate case. So there's the interest argument answered there. I talked about the recent medical verdict in New Hampshire where a \$1.5 million claim generated a \$½ million legal fee. The provisions of the bill establish a scale for contingent fees from 50% down to 20% depending on the amount of the verdict. These are not stingy fees. For instance, a verdict of \$1½ million would bring a fee of \$325,000 to the lawyer. And that ain't hay. The bill also provides in an exceptional case, the lawyer can apply to the court, for an increased fee. In conclusion, Mr. President, I'd like to state that the Matthew Thornton Medical Health Plan, the non-profit health plan in Nashua, has written to me and strongly endorses HB 314 and says, and I quote, "It is legislation that deserves senate approval." There is much more that I could say on the bill, but i'd like to quote only 2 lines and then cease. And the 2 lines came from the typewritten transcript that was given to us by the Secretary of the Senate committee on Insurance and she is quoting the comments of one person who came before that committee to speak. Fred Cocher, representing Vermont-N.H. Blue Cross/Blue Shield

supports this bill. Vermont-New Hampshire Blue Cross/Blue Shield says this will be a great step in helping keep costs down. Thank you very much Mr. President, I urge the adoption of the majority report.

Sen. BERGERON: Mr. President I mean to belabor the point. I think Senator Rock has given you a fair synopsis of the bill. You've heard the history of the bill. You've heard the necessity of the bill and everyone with the exception of about two people has acknowledged the seriousness of the situation. There was absolutely no opposition to this bill at the hearing or to me personally since the time we heard the bill. We heard Senator Downing, Senator Rock alluded to it that he said we will be back here a lot over the next one and a half years. His words were to let something function and if its not right we'll take care of it later. In the meantime let us give it a chance. I submit to you the last paragraph of the bill which is exactly what we are doing. If we are wrong, we will correct it. I don't think at the present time we have any choice to see the system function. You will notice in your calendar that we have I think I've counted about eight amendments and maybe more. I'll be perfectly candid and perfectly frank with you Mr. President these amendments were submitted by one individual. It is nothing more than a smoke screen to scuttle the bill. Later on this afternoon you are also going to hear from someone who again is going to cloud the issue and that to me appears to be nothing more than a dislike of certain individuals that tried to do a job. I think a dislike, a like or dislike for an individual should have no bearing and no notes to the subject at hand. I think what you've got to do is separate the wheat from the chaff and if you don't think there is a problem and something that is mighty dear to the heart of one of our Senate members. I would just like to read to you an article that appeared in a newspaper two nights ago referring to local Dr. Soule. Bear in mind that I have no qualms with anyone being compensated in a justifiable suit for damages if the doctor, the hospital, the lawyer, I don't care what it is has wronged someone he should be made to pay. We have had some real problems with real frivolous suits as well. I'm going to make reference and I'm going to read from the article "Malpractice lawsuit to which have sent medical costs skyrocketing because of the expense insurance needed to cover such suits have begun appearing in this particular county superior court. Recently

so and so has filed a suit asking for three million dollars. The two million dollars was asked because of complications that illegibly arose following the caesarean section delivery of her child. Now I am not going to attempt to get into the fact of the matter, that's up to a court and jury; but really what got to my heart was her husband is asking for one million dollars because he illegibly lost the social companionship and consortium of his wife during that period. Now I ask you ladies and gentlemen, to consider the facts before you. Don't let any attempt to scuttle this bill go. The committee with the exception of two people, the vote was 3 to 2. The only opposition to the bill was from one particular individual on the committee. I don't think it's worth it to scuttle such a bill.

Sen. LAMONTAGNE: Senator I am sure that you are well aware and know the laws of insurance. Could I ask you this, if this bill 314 is adopted as presented in the way that Senator Rock has presented it, will it make it easier for doctors to be able to get insurance?

Sen. BERGERON: In my mind, Senator, there is no question. I know we received testimony from the commissioner of insurance in the state of New Hampshire to that affect.

Sen. LAMONTAGNE: If this bill is adopted it will stop many of these insurance companies giving doctors cancellation of insurance?

Sen. BERGERON: Yes it will. That is all built into the system and I'm sure that you know Commissioner Whaland as well as I do and he's not going to see any abuse of the bill.

Sen. PRESTON: Mr. President, I'd like to speak. I don't know if I'm one of the two is eluded to as a smoke screen here but I'm standing up to speak in support of this bill and I'm a little upset by any references otherwise. I don't know whether I'm speaking in support of HB 314 the medical malpractice insurance bill. Forgive me for my error but the presentation of these bills is so similar that I am confused. The insurance companies with their customers before us, attorney Martin Gross saw it articulate, spell out the horrors occurring in the suits and how the consumers could be so protected as he so well represented the insurance companies as their paid lobbyist. As in the case of the products liability bill when perhaps 80 businessmen who have recently paid increased liability insurance premiums sometimes tripled to five times what they have normally been paying. Members of the medical profession came before us and indicated that

their premiums had also climbed and in some cases such at Mary Hitchcock hospital I think the figure was \$27,000 to \$450,000. What irks me is that New Hampshire isn't the problem area that other states are. I agree that the one case sighted in Portsmouth was a legitimate one whereas the settlement was approximately 1½ million dollars did occur and this was a regrettable circumstance. But once again it appears to me that the New Hampshire people will be the guinea pigs. For a small state easily lobbied, the highly paid concentrated effort to initiate a program to restrict our citizenry more so than others. Admittedly, in the cases of both bills New Hampshire manufacturers are responsible people. The hospitals and doctors in New Hampshire are most responsible. The cases of the horrible suits with the exception of one just aren't here as they are in some of the large metropolitan areas where the problems arise such as New York and California. I'm upset and perhaps shouldn't interject it here that the products liability bill with the same lobbyists and the same background sponsors was defeated in the senate and has now appeared as amendment on SB 208 having to do with legal insurance coming back almost in its entirety to be presented to the senate once again. Mr. Gross and the well-heeled insurance lobbyist just won't quit. They know better than the elected representatives of the people. It is not my responsibility to foot the bill for the attorney fees or the salaries of these people. Interestingly enough we had a session last Friday on this bill before us this afternoon. I had several questions and made comments on this bill and Senator Bossie suggested a couple of amendments. We left here in the late afternoon and almost immediately upon getting home at about eight in the evening I received three calls. Two from doctors and one from an insurance agent who quoted verbatim the concerns I had raised and that Senator Bossie has spoken to. So there is definitely a very clear line to the insurance representatives industry in Concord through our committee. I think it should be known publicly that the insurance companies are being well represented here in Concord but our concerns should be more for the professions this is intended to protect the businessmen and the citizens that we profess to represent. At neither hearing did I hear any testimony by the insurance companies of the losses locally experienced by them as a result of their insured New Hampshire. I have asked for the total amount of premiums



and losses paid out over the past few years sent a memo and have yet to receive this information. The businessman and doctors were told the same story as puppeteers pull their strings they force the professional businessman to come before us indicating that insurance was "unavailable or unaffordable" and I have heard that term a half a dozen times in both hearings. If this is so I say it not as a result of the experience of the New Hampshire insured. I recognize such losses if they exist; but it irks me that New Hampshire residents are singled out first that we should restrict our people and not those in neighboring states. I will vote for this bill because I think some sections of it such as the self-policing within the profession and coverages are reasonable. I do not disagree with the fees that they have established for the attorneys. For I think that it initiates a very dangerous precedent that we should legislate such things and I do think it is a beginning for things to follow. It is admitted that this shall do nothing to lower rates. But it will place a ceiling hopefully on the skyrocketing costs of malpractice as a result of others in their bad performance in other sections of the country not necessarily New Hampshire. Interestingly enough in the state of Kansas the products liability bill went before the legislature there, another not too popular state I might add, the state of Kansas voted for the products liability bill with options that if a majority of other states also concurred their citizenry would go along with it and if not their citizenry would continue to have the same rights of suits they now have. The option of which ever gave the better break to their citizens. They said in effect, therefore, why should we prevent the citizens of Kansas from having the same rights as citizens in other states and I think those of us who voted for the defeat of that bill were trying to say. I would just like to make the point Mr. President that in voting for this bill I do it in no way to subsidize the well heeled effort of the lobbyists of the insurance companies I understand spent some eighty thousand dollars raised by customers to insure the passage of this bill in the House and Senate and I in no way want to add to the '77 income of a high-paid lobbyist; but I strongly support this bill and as Senator Rock said I hope it keeps the ceiling on the cost so our responsible doctors and hospitals in New Hampshire won't face higher ones to be passed on to their patients. I do not suggest this is a fly-by-night piece of legislation, I think it's been well thought out. I think it is

necessary but I dislike the tactics used in placing it before us.

Sen. FENNELLY: Senator Preston did I hear you correctly when you said that eighty five thousand dollars was raised by whom?

Sen. PRESTON: I understand people were asked to contribute the sum of eight thousand dollars.

Sen. FENNELLY: When we say people, are we talking people within the medical profession to get this bill drafted to pay these high-priced lawyers, is that what we are saying?

Sen. PRESTON: That's what we are saying.

Sen. FENNELLY: In your opinion being in the Senate for so many years, does it take \$85,000 even for Mr. Martin Gross to draft the bill?

Sen. PRESTON: Senator, I'm not aware, I'm not planning to, I don't know what they get paid I respect some of the advice I'm given but in this case I dislike the will of the Senate in one case determining the defeat of a particular bill and coming back, I didn't mean to muddy up this particular bill, I think it happens to be good. I just don't like the tactics employed.

Sen. JACOBSON: Senator in your talk you said that the courts would be active in disciplinary action on instances where they have in fact had malpractice in the view of the court? Is that correct?

Sen. ROCK: This bill requires the courts and the insurers second, the hospitals third, and the professional association fourth; bring to the attention of the board even alleged misconduct, which must be brought to the attention of the board.

Sen. JACOBSON: Well Senator I'm not able to find that. All I find in there is that the courts are required to report to the board any filing of a case of malpractice.

Sen. ROCK: The filing of a case is an allegation. You are still in this country innocent until proven guilty, even though you are not a lawyer, Senator, you know that.

Sen. JACOBSON: Well, I think it is a very important distinction whether the courts are going to report instances that they know of or whether they are going to report cases.

Sen. ROCK: Well the filing of cases is an allegation as I understand it. I could be wrong.

Sen. JACOBSON: Secondly, the insurers as I understand

this bill they only report when some damages have been awarded?

Sen. ROCK: That may be your understanding. That is not my understanding.

Sen. JACOBSON: Would it be important to make sure on this particular question?

Sen. ROCK: Well, Senator, if someone else would speak for a moment and you ask me that question, I'll sit down and reexamine that portion of the bill and I'll give you an answer.

Sen. JACOBSON: It says every insurer providing professional liability insurance to a licensee of the board shall send a complete report to the board as to any settlement awarding damages. Now I would interpret that as having no involvement whatsoever in reporting instances that they know of.

Sen. ROCK: Well if you will just wait a minute Senator I'm looking at section 18 here the analysis, one page 8 section eighteen roman one—the board may understand disciplinary proceedings (a) upon its own initiative (b) upon written complaint of any person with charges that a person licensed by the board has committed misconduct. A written complaint of a charge by the board for misconduct as set forth in paragraph six of this section which specifies the grounds therefor. So I see any written complaint wouldn't be what we just said?

Sen. JACOBSON: Well Senator your report said that the insurers would report instances of malpractice but the statutes only, this proposal only says they are going to send a report of an already settled case.

Sen. ROCK: Roman three—every insurer providing professional liability insurance to the licensee of the board are to send a complete report to the board as to any settlement award, damages arising out of an action for medical injury as defined in RSA within 30 days after such settlement or award.

Sen. JACOBSON: But in your discussion in which you said that important disciplinary procedures are now going to be imposed and that the insurers would report instances of malpractice?

Sen. ROCK: I think Mr. President I could be wrong in putting together my thoughts as I was looking at roman one which said unwritten complaint of any person, and then we skip down to three which is the insurer.

Sen. JACOBSON: So in fact the insurers are not going to report cases of malpractice except those that are settled?

Sen. ROCK: I don't see it that way Senator but if that is the way you see it, why I'll have to bow to your wisdom.

Sen. JACOBSON: You said that medical practitioners would also be under the obligation of reporting instances of malpractice. Could I see that in the proposed law?

Sen. ROCK: Every professional society within the State comprised primarily of persons licensed by the board shall report to the Board any disciplinary action against a member relating to professional ethics, medical incompetence, moral turpitude, drug, or alcohol abuse within 30 days of such disciplinary action.

Sen. JACOBSON: But that again Senator relates to an ex post facto proviso not to any instances for malpractice. This is after action has been taken.

Sen. ROCK: Well I would assume Senator until the malpractice has taken place it would be difficult to report it.

Sen. JACOBSON: Why if there is a case of alleged malpractice and a provider knows about it he could report it and say I believe that Dr. Smith has engaged in malpractice; but I don't see anything in the statute that says he's going to do that.

Sen. ROCK: Roman one.

Sen. JACOBSON: Doesn't require it, where does it require it?

Sen. ROCK: Upon written complaint of any person, any person, charges that a person licensed by the board is committed misconduct as set forth in paragraph so on. A corporation can be a person, a society can be a person, any person can make the charge.

Sen. JACOBSON: But Senator you said that every medical provider was under the obligation to report. This does not have any obligation?

Sen. ROCK: Well, that is not my understanding Senator.

Sen. JACOBSON: So they are not obligated to report?

Sen. ROCK: That is not my understanding.

Sen. JACOBSON: I've been in the teaching profession for several years and we have one of the rules regarding tenure which would amount to disciplining by a medical board and one of the reasons, moral turpitude is one of the reasons for disciplining and teaching incompetency is another reason and the third reason happens to be insubordination. As far as



I know I can't cite a single case of teaching incompetency that has ever been reported because the teaching profession like every other profession becomes a protective group. Now my question is how many cases of medical incompetency have been reported with the exception of the Sanders case in the last 30 years by one physician on another physician?

Sen. ROCK: Well let me preface my answer to your question with my experience in higher education I have not been involved in higher education as long as you've been a teacher. You've been a teacher for 20 years. I've only been a trustee for 6; but if there is one thing I as a trustee would like to see abolished its tenure. I think it is a terrible thing and I'd love to see tenure abolished. I can't answer the second part of your question.

Sen. JACOBSON: Then if you see to have tenure abolished why do you establish protectiveness for the medical society?

Sen. ROCK: I did not.

Sen. JACOBSON: Why did you support it then?

Sen. ROCK: I did not support, protected for the medical society.

Sen. JACOBSON: Now I have one further question on this and you testified that if we could adopt this piece of legislation we would have a stabilizing effect on medical cost, is that correct?

Sen. ROCK: That is my belief and I was careful Senator not to say that this is a panacea, this is going to reduce your hospital cost and this is going to reduce your medical cost because I do not feel as a direct result of this bill we are going to cut hospital bills in half. But I think if we don't do something along the line of this bill we are making hospital costs so unaffordable that I would point out the situation to you which is appealing to me. I just couldn't believe this; but I am told by people of very high repute in the medical profession who are also very concerned about it that there is a tremendous growing number of young couples who are having their babies at home and not because it is the thing to do but because the cost of having a baby delivered in a hospital today is \$1500 and they just can't afford it. And the reason for the skyrocketing cost as I've outlined to you is the high cost of the insurance on these hospitals. Hospital costs are going out of sight with or without hospital insurance and I'm

hoping that this will stabilize it. Certainly it won't cut it in half.

Sen. JACOBSON: Senator you further testified that these insurance costs are 6% of the charges?

Sen. ROCK: No I did not.

Sen. JACOBSON: What reference did you have to the 6% then?

Sen. ROCK: I made no reference to 6% Senator. If you had been listening closely you would have heard me say that if you stayed in the St. Joseph's hospital in Nashua New Hampshire, six dollars of your daily cost would go directly toward insurance.

Sen. JACOBSON: \$259.00 a day. Now six dollars represents, and you can correct my calculations a little bit between 2% of my cost. Is it not true that the real stabilizing cost has nothing to do with the insurance but with the charges that medical providers are providing?

Sen. ROCK: Well you are comparing apples and oranges. The cost that you realized I am sure Senator, were in intensive care unit costs in a specialized hospital. The six dollars that I refer to is six dollars out of approximately \$60 to \$80 a day for the cost of a regular room in a hospital which is closer to 10% and I'd like to give you validation for that as it applies to another hospital outside St. Joseph's in Nashua or more specifically to several hospitals. In a letter from Frederick Derick who is President of the New Hampshire Hospital Association and listen to this, Senator, malpractice insurance cost at hospitals have exploded. I spoke to the situation at Mary Hitchcock hospital. I'm sure Senator Bradley, if he is here, will testify to this, their's is up 600%. In 1974-75 this is all hospitals, 27 hospitals in New Hampshire, 26 reporting aggregate amount of expense added to patient's bills because of insurance. 1974-75 insurance premiums in those hospitals, \$280,000. Cost per patient day \$.32. In 1976-77 all hospitals, \$2,180,000 or \$2.52 a day, a two year increase of 679%. Now that is outlandish. And sometimes they are having difficulty even placing it.

Sen. JACOBSON: Now you mentioned about the \$259.00. The daily cost outside of intensive care is \$104 a day at the Hanover hospital. So we are still dealing with less than 6% of the cost?

Sen. ROCK: You used as your example the highest cost room and I think that was an unfair comparison.

Sen. JACOBSON: I still have to pay it Senator, isn't that correct?

Sen. ROCK: But \$6 applies across the wide spectrum and you used an example which would reduce the percentage figure the most.

Sen. JACOBSON: Senator, if I divide the time between \$104 a day and \$259 a day we get about \$175 a day right?

Sen. ROCK: Well I think if you are going to make an algebraic relationship out of it you must compare one hundred and six to six and two hundred and fifty nine to six and the ratio are what you want to establish in percentages. Not the high cost room or the low cost room.

Sen. JACOBSON: But in any event Senator is it not true that whether its the low cost room or the high cost room it represents a very small percentage of the total cost?

Sen. ROCK: Senator, perhaps you didn't hear me but in a two year term the cost of insurance for hospitals in the state of New Hampshire have increased 679%. I don't know of anything that I buy or use that has increased that much.

Sen. JACOBSON: You made mention of the fact that a person who is the actual medical provider can testify and give expert opinion and at that moment he loses his immunity to testifying against himself is that correct?

Sen. ROCK: I'm not a lawyer either Senator as I understand it the person cannot be forced to give expert witness testimony against himself unless he has in fact given expert witness testimony for himself. He can testify in any case as to what he did or what he knows or what he saw but there is a difference in that as I understand it and testify as an expert witness, but I'm not a lawyer.

Sen. JACOBSON: The fact to the case is that the proposed piece of legislation becomes only voluntary with regards to the medical care provider so that there is no way in which the plaintiff can put him on the stand is that correct?

Sen. ROCK: My understanding is that, and I could be wrong I'd have to defer to Senator Bradley, but in any court of law you can't be made to testify against yourself in any case. Wrong. Criminal case.

Sen. LAMONTAGNE: Mr. President members of the senate, personally I'd like to have the Senate know why I was questioning Senator Bergeron about insurance because what really happened in the city of Berlin, Dr. Boober had a cancellation of insurance and it almost put him out of business.

So therefore I am happy to see that this HB 314 is going to correct and protect doctors, hospitals. Therefore, I am in favor of HB 314 without any amendment.

Sen. BOSSIE: My presentation will be very brief because I have a number of amendments to offer and I will speak to each issue as I go down them and I know my good friend Senator Rock has already addressed a number of these amendments so I will attempt to be brief. I think this is a very interesting doctor's relief bill. It obviously is one, but it adds in other health care providers such as hospitals. As we know all doctors are not bad. Overwhelmingly, they are fine people and overwhelmingly they have very few claims against them. Now honest people must admit that. Every person whether they are professional or not is guilty sooner or later of malpractice of forgetting something doing what is accepted as a norm. What you learn in medical school, what you learn in dental school, what you learn in law school. Now I would be embarrassed to vote for a bill like this if a similar bill was introduced for lawyers. I think it's shameful. At the same time Senator Preston mentioned that the doctors were taking up a little collection to put this through the legislature. Well, the little collection happens to be \$100 a head and there are 1,400 doctors in New Hampshire and that means one hundred and forty thousand dollars is to be collected to put medical malpractice into effect in New Hampshire. The letter that they sent out I happen to have seen it because I too have friends who are doctors and I have friends who are clients of doctors. They belong to a close shop just the way that lawyers do. They have to belong to the medical association just as lawyers have to belong to the bar association and this is fine because belonging to the bar association the supreme court has control over it and they control the ethics of the lawyers. I have no problem whatsoever with the first part of this bill. Its excellent. It's long overdue. Would it surprise anybody to hear before this Senate that only last year a doctor was suspended the first time in many years for unethical conduct and it involved a doctor who was prescribing drugs to drugees. Now I don't care if they put \$145,000 to buy this bill. I don't care if Marty Gross makes all that money. I don't care if Marty Gross's law firm who does all of the defense work for doctors in the medical association, New Hampshire Medical Association in New Hampshire and there is only one other law firm that does the



defense work and that is a law firm in Manchester and they represent the hospital association and I don't mind that. But when we are talking about premiums what we got to think at the same time that you got two sides to every issue. You got a plaintiffs lawyer, you got a defendant's lawyer. In New Hampshire, historically, defendants lawyers or doctors and hospitals have been making all the money. So if we are going to have a contingent fee for the lawyers who are handling these cases, why don't we limit the amount of income that the lawyers who defend them. Let us limit them to \$40 an hour that would be very reasonable. But no, we are going to skim over that issue say all these amendments are bad because some lobbyist and there is a bunch of them out in the hallway, that have been saying vote for this bill without the amendment because Senator Bossie is trying to kill it. Now I am not trying to kill this bill. Let us make it clear. This bill is going to pass. I could have told you that six months ago. The fact remains that it will be criminal of us to pass this bill without any amendments. Just think of it. I'm not asking you to vote with me, but when you look at these amendments determine them on their own merits not because I'm a lawyer, not because Senator Bergeron is an insurance man, not because Senator Rock and Senator Smith are trustees of hospitals. I don't care about that because that makes no difference. Do it on the merits of the case that is all I ask you. Now I also wanted to say that the history in New Hampshire of insurance rates is such that all the rates for medical malpractice for hospitals and doctors are based on a national average. Senator Preston said we don't have local statistics on which to base any experience. In New Hampshire there have been only two successful cases against doctors. There have been a few more against hospitals because of the fact they are so large you are nurses, you have all these little people running around. The fact remains that only two have been generated. The big thing is the big hospital case over in Portsmouth in which some little kid is a basket case for the rest of his life. That poor little kid was awarded a million and a half dollars and that was to his parents and to himself. Nine hundred thousand I believe was for economic damage to provide for the child the rest of his life because he doesn't get out of bed, doesn't do anything. Also, you have heard the premiums will not go down. It's true. Even Frank Whaland can't come in and say they will not go down. They are

going to stay the same. Why in heaven sake are we going to vote ourselves a lousy bill that will take away our rights and not get something in return. I've told you about this in many bills and you refuse to listen to me; but it's true. Get something in return. If you're going to give it up, cause once you give it up you never are going to get it back. Now I speak of civil rights and every other right you may have in this world. Don't give it up. It's too precious. I dislike that portion of this bill which restricts peoples rights to recover damages. Damages which will be awarded to them by the jury of their peers. These aren't a bunch of clunkers that just got out of Harvard Law School. These are your neighbors who will sit as a jury to decide just how much money you're going to get. Ordinary people don't know what a million and a half dollars is. On this Portsmouth hospital case, I don't even know who was on the jury but I know there were no doctors on it, no lawyers on it. I know there was nobody with a lot of money because they get themselves exempt. These are just regular people who are on the jury and if they are working in a local factory, and think the case is worth a million and a half dollars, who is it for you or I to argue with them. Leave it to them to decide. Would it be surprising for you to know that currently in New Hampshire there is a case going on against a medical doctor for cutting off the wrong leg. A person was sent to the hospital to have his leg amputated, the doctor cut off the wrong leg. Now I ask you ladies and gentlemen of the Senate, what is the value of that leg? Who here amongst you would be willing to sell your leg for a lousy two hundred fifty thousand dollars that is in this bill? I don't see any of you standing up because it's true. You cannot put value on your leg. Would it be worth a million dollars? Would it be worth two million dollars? I'm not the judge. My leg is not for sale. But I'll tell you one thing, if anyone should damage my leg you can be sure they are going to pay for it for the rest of their lives. Now we've heard Senator Bergeron say that this is one big smokescreen to kill the bill. I told you previously I am not out to kill the bill, there are five members on the committee, three favored it, two are opposed to it or opposed to it in its entirety. We favor it with the amendments or some of the amendments. Senator Preston and I don't even agree on the amendments. He said he would listen to them today. I think this is just fine. I also had to laugh. The other day we had our big hearing on this. The

room was loaded and Senator Preston said the same people that were there a couple of weeks ago for product liability, all insurance men and doctors. Now the difference is these people were clever. They were not dummies. They are very intelligent and only one was a real pompous ass, I must admit, and he blamed the whole malpractice thing on lawyers. He was some public health doctor from Harvard, Massachusetts, and it figures. The fact remains that the problem in New Hampshire there is no great problem. Our premiums are going up because of the fact that in California and New York you have unscrupulous people. There is a case in California, 69 different people are suing a doctor for malpractice. The last I had heard the people had collected eleven million dollars in damages from one doctor, one quacky doctor. Now that is incredible and I don't know why their medical association didn't do something sooner. I want our medical association to have teeth and I think the first part of that bill is just super. I have no problems with it. I think also at the same time we should consider that case in Chicago where they are finding the children of women who took DES during pregnancy, they are finding out now that the rate of cancer occurrence is astonishing. We would deny possibly a lawsuit against those who are responsible for this? Maybe it might be on your hands and if that is the case, fine. I just ask you don't close your mind on this please wait until you hear my amendments. I'm going to go down them one at a time. I'm not trying to filibuster this, I'm not trying to knock your heads against the wall. Please listen to the amendments and vote on each one as you see fit. If you see fit to discard them all, fine. But please listen to them.

Sen. SMITH: Mr. President, I arise in support of the bill and I would just like to paraphrase Senator Bossie, I don't think our lawyers are bad either. I won't kick in the leg because I don't want to get screwed. I won't do anything along that line. I would just like to say a few words in regards to the bill and a few of the comments that have been made. Senator Jacobson questioned the disciplinary section of the bill and I think this bill, this section of the bill takes into consideration most circumstances. First of all it says that the board may undertake disciplinary proceedings (a) upon its own initiative for any reason (b) upon a written complaint then it mandates that after a proceeding has taken place in a court, through an insurance company, or through a hospital

or any professional society that these actions must be reported. Not every rumor, but every disciplinary action where there has been some consideration. Many of the aspects of the bill which have been discussed as being bad or being ones which do not have merit. I think it should be taken into consideration that this bill is not something that popped into the air here in the state of New Hampshire and was promulgated by one group or another. Much of this bill was brought about through the study which was made by the American Bar Association which set up a commission on medical, professional liability. Many aspects of the bill are based upon that study. Now that study, that commission was composed as I understand, of lawyers, of doctors, judges, insurance people and they came up with recommendations. Now some of those recommendations were not adopted by the American Bar Association. Some were. Some of the aspects of the bill are found or modification of it are found in other states. Something that has not been said today that I would just like to mention for a few moments. If you were a doctor or you were a hospital or you were giving medical care with the amount of number of suits that are going on, the amount of litigation relative to malpractice, one of the first things that a doctor does, and I think the hospital does and it may tend to harm the practice of good medicine, is to take every precaution so that not only the tests that the doctors think might be needed are given but ones which may not necessarily need to be given. Therefore, all of the costs are increasing not only directly through liability costs but the cause of the exceedingly cautious attitude. I'm not saying that the doctors shouldn't be cautious, but I think sometimes they can tend to be over-cautious because of the amount of litigation that has gone on. I hope the senate will pass this bill without amendments. Will adopt the bill and if it is found that the special session or at some future session that there are weak points in this bill, which there may be, then they can be corrected and they can be worked on. In this case be refined but I think that this is a real step forward for people who are trying to get reasonable medical coverage.

Sen. BRADLEY: Senator Smith the business of reviewing how this works intrigues me because I have my own prophecy as to what is going to happen to malpractice premiums after we pass this bill. They are not going to slow down noticeably. What do you think the desire of the propo-



nents of this bill will be, two years down the road when malpractice premiums in fact have not gone down?

Sen. SMITH: You are pre-supposing. Here we go Senator, with another if. Some of the testimony, must of the testimony I believe that was given has indicated that there is hope, thought that these insurance rates would tend to level.

Sen. BRADLEY: Thats true.

Sen. SMITH: Thats an if true.

Sen. BRADLEY: I'm saying if they don't.

Sen. SMITH: I'm not making any suppositions what this legislation will do or will not do. I think probably other tactics may be taken but I think that this will be of a help in giving reassurance to the people of this state that there is some stabilization.

Sen. BRADLEY: If my prophecy is correct that this bill is not going to make a dent in the upward trend of malpractice premiums or the trouble of availability, would it be fair two years, four years from now for the people who are concerned to look in other directions to attempt to correct this rather than trying to regulate lawyers fees, shorten the statute of limitations further, impose other restrictions on what can or cannot be said in the courtroom, would that be a fair approach or should the approach be to limit the things we are limited even more?

Sen. SMITH: I think your first statement, I think people will take different tactics maybe if your supposition upholds water. I'm not convinced that it will.

Sen. ROCK: Senator Bossie you alluded to a certain number of positions being recruited to support this legislation and I'd wonder if you'd refresh my recollection how many did you say?

Sen. BOSSIE: Well the reference that I made was that every doctor in New Hampshire received the letter from their association, I believe there are 1,400 doctors in the state saying they are expected in accordance with the bylaws, give a hundred dollars each as an assessment as determined by, it is not a board something higher, something like they have in England. At any rate they are supposed to give and they've got until September 1 to give and if they don't, they will be suspended.

Sen. ROCK: Would you be surprised to learn that while there may be 1,400 doctors in the state only active members

of the New Hampshire medical society were contacted for a contribution?

Sen. BOSSIE: I wouldn't be surprised and I understand there are about 1,100 some odd of them.

Sen. ROCK: Subject to check Senator, would you agree with me that there are only 800?

Sen. BOSSIE: Well I would disagree because I talked to the little man from the medical society. He told me that already \$85,000 has been collected and I asked him how much did you spend already. He said oh, \$47,000. I said how much is Marty Gross getting? He said oh, only 6 or 7 thousand dollars so far, but we haven't got his latest bill.

Sen. ROCK: Senator could you document those figures?

Sen. BOSSIE: If he would be willing to give them to me I certainly would. I think it was at the committee hearing and I think you were out of the room but he told me that and I don't care to document it. We know it and you know it and there is plenty of money around there to fight for this bill. I don't think that is a justification for passing or killing it.

Sen. ROCK: I agree Senator, I just wanted the full Senate to have the benefit as accurate informational package as we can provide them. I had a feeling in part that there may have been 1,400 doctors at \$100 a clip or \$140,000 might be somewhat misleading. So subject to check I asked you would you believe that only active members were solicited and only 800 of those.

Sen. BOSSIE: Let me put it this way Senator, whether it was \$85,000 they collected \$140,000 the gambling bunch from up north, that's a lot of money and to put one little bill through the legislature. That's incredible.

Sen. ROCK: Subject to check that all the gamblers may not be in the north Senator, do you think it's fair to lug the professionalism of medicals, hospitals with illegal gamblers, is that fair?

Sen. BOSSIE: It sure is and when anybody raises \$100,000 to put a bill through the legislature whether it's the gambling bunch, the medical bunch, the lawyer bunch, or any bunch we'd better look at it a second time.

Sen. ROCK: Well Senator, would it surprise you to know that to date the only amount of legal fees that have been paid by the legal society, \$4,000 and no money has been expended since May 4?

Sen. BOSSIE: I would not know who they paid or what they paid or whose lunch they bought either. I don't care.

Sen. JACOBSON: I was intrigued by your support of the section where the board on its own initiative undertook disciplinary proceedings that of a complaint lodged. Now what intrigues me Senator, is that Senator Rock testified that we are really going on the hard ground now, that we are really ready to put the pressure on the medical profession. My question is why is it then the permissive may instead of the imparative shall?

Sen. SMITH: Are you questioning upon its own initiative or upon written complaint a or b?

Sen. JACOBSON: Both are there.

Sen. SMITH: Have I ever complained to you about anything?

Sen. JACOBSON: Yes.

Sen. SMITH: Have you ever investigated it?

Sen. JACOBSON: Yes. If the board has the total authority to reject or accept any disciplinary proceeding, where is the hardness or the strength or power that Senator Rock spoke of?

Sen. SMITH: I think the hardness is in much of the total picture of the problems that the medical profession is having with liability problems, with suits and so forth, an attempt will be made I feel very strongly to take disciplinary action against those doctors whom the board feels is and investigate them, feel they are not practicing medicine in a not positive manner or are committing some acts which may be considered as malpractice or may not be doing the amount of training that they should be doing. I think it's encumbered upon them and I think they will do it. Now the Bar Association, their committee relative to ethics is a very active committee and I think the doctors board of registration in medicine will become active in this and this bill gives them the tools to be active.

Sen. JACOBSON: Could you tell me how many lawyers have been disbarred in the last 10 years?

Sen. SMITH: Well I couldn't tell you the exact number but maybe Senator Bossie could answer that question, he doesn't seem too interested in it. There are a number that have either been disbarred or disciplined or suspended.

Sen. JACOBSON: Incidentally in the last year I know of

only one that has been disbarred. What happens for example if I have a problem with a physician and I go to the board and they impose 329:6 on me which is confidential communication?

Sen. SMITH: Is that a confidential communication?

Sen. JACOBSON: Yes.

Sen. SMITH: I'm not sure that they would impose confidentiality on you.

Sen. JACOBSON: It's right in the statute. It says here no physician shall be required to disclose?

Sen. SMITH: To the public right? Where are you reading Senator?

Sen. JACOBSON: Page 11.

Sen. FENNELLY: I basically rise in support of the bill but not unless certain amendments are passed with it. I'd like to reply to a question asked of Senator Rock to Senator Bossie about how many doctors there are. You are probably right in the area of 800 probably closer to 900. My concern is this, that approximately two weeks ago I was sitting in a restaurant Sunday morning having coffee and two of the local doctors came over to me and wanted to know if anyone contacted me on this bill and believe it or not nobody has contacted me and I think it's a disgrace that \$100,000 should be spent to draft this particular bill and not one person it has taken the doctors themselves through calling directors of hospitals to get some input into this bill and when Marty Gross and that group that represents the insurance companies of this state of malpractice and product liability to absorb to a great degree the monies that the doctors and yes it is \$100 that they levied on these doctors in support of lobbying for this bill but there was no actual lobbying done it was all absorbed in the drafting and the inner moves within the House to have this bill passed and I hope that some of these amendments sponsored by Senator Bossie be approved. If not, I hope we can round up eight senators and filibuster this bill.

Sen. BRADLEY: I want to rise just briefly to say that I intend to vote for this bill but I am concerned with certain aspects of it. As I indicated in my question to Senator Smith I do not believe that this bill is going to make much of any difference in the number of claims that get filed that are successfully pursued in this state and it's even less likely that it is going to have any effect on premiums. The reason it is not



going to have an effect on premiums is very simple. Even if the bill had a little effect on claims in New Hampshire it is not going to effect the premiums because the premiums aren't based on New Hampshire experience and there is no way, according to Mr. Whaland, that they ever will be. As long as there is a malpractice problem nationwide, we are not going to solve it just by passing some restrictions on malpractice claims in this state. Now what really bothers me about the bill is not what's in it. There is nothing in there I don't think that lawyers can't live with. There is nothing, I think Senator Rock is essentially correct, that a legitimate claim is still going to be able to be brought; but what bothers me is what I'm pretty sure is going to happen and this bill isn't going to prove anything and two years later the doctors and medical profession and hospital is going to be back and saying we didn't go far enough. Look, we still got a problem. We didn't tack down hard enough on these claims. We need a one year statute of limitations. We need to reduce lawyer's fees by half. We need to impose more limits on damages. We need to say there can be no recovery for this. We need to cut off what can't be put into a writ to argue with the jury. And it's not going to work. You can crank it down to nothing. It would be wrong. I think the present bill—I think the doctors have to contend the present bill is their idea of what is fair. What is fair to the public, what is fair to those claiming, what is fair to them. If this doesn't work though, I think the medical profession has got to look to something other than simply trying to impose these kinds of restrictions.

Sen. TROWBRIDGE: Senator Bradley I too intend to vote for this bill but on much the same ground. I just received a call from the Home Insurance Company saying well, product liability somehow we will get that taken care of with other bills and I asked him will there be any change in the insurance rates and its availability. No, but it will be a step in the right direction was the answer and I think that is what we are all doing here and I agree with you.

Sen. BRADLEY: In a way I, let me disclose. You know that I'm a lawyer. I represent several hospitals and we represent a lot of doctors and I have many doctors that are friends of mine socially. I've never taken a malpractice case and tried it although I've had a number come through the door. I think I have somewhat of a feel for it, the situation and I like to think I have some balance and perspective on it. I really

did think in a way that what we are doing here is the doctors have a problem. I would hate to be living under the same kind of fear they live under. I would hate to be paying those premiums myself. I think the public and the legal profession can live with this bill and we will try it. If nothing else than to make the doctors feel more secure and maybe that is all we are doing with this bill; but I am worried that this bill isn't going to solve the problem and then there really is going to be some unduly restricted thing proposed which I wouldn't be able to live with.

Sen. BERGERON: Senator I'd like to ask you a question. I'd like to preface my question by reading something to you. "In order to avoid confusion I am doing something that I have never done in appearing as a witness before a legislative committee and that is to commit my testimony in writing. In that past, particularly on the subject that is before your committee today, my remarks have been taken by various vested interests out of context to support the particular course of action which they wish to follow. I should also say that I am not here as an advocate of any particular position but to attempt to give you and the honorable members of your committee the facts." and he goes on to state, "quite simply, other than for life insurance I cannot see rates for any kind of insurance coming down so long as we are on the roller coaster ride of inflation rates will continue to rise. However, with the reforms advocated in this bill rates should not escalate to the same degree as would be the case if presently the system continues. While professional liability insurance has to be determined in some degrees on nationwide experience actual New Hampshire experience has been taken into account and will continue to be so taken so far as our rates for this coverage is concerned. " Follow it up by a complete listing of premiums and losses for the New Hampshire experience and the New Hampshire joint underwriting authority, would you believe this was written testimony submitted by Frank Whaland to every member of the insurance committee?

Sen. BRADLEY: Yes I believe that is so, but I don't think I quarrel with anything that was said in there. I think that in a way it is telling you, do you expect these to go down. Don't even expect them to stabilize, meaning stay level. They are going to go up maybe they won't go up quite as fast as otherwise we will never know but my fear is that its still

going to go up so fast that everyone is going to think this bill has done nothing, which is probably true.

Sen. HEALY: I arise in strong support of this measure and I'd like to speak of the human side of this bill. I have a doctor and I know many other doctors are all very ethical; but they are all ethical in Manchester and I'm very happy to say that. I know of no unethical doctors and I know that the doctors in Manchester do everything possible for their patients. My particular doctor is in a hospital at 6:00 every morning. I know that from first hand experience. He's ever ready for a call. He's just a wonderful guy and he's been wonderful to my family and that is typical of all the doctors that I know in Manchester. On the human side of things I want to point out that the doctors are great and their charges in my case particularly have been very fair. Most of my charges have been paid for through insurance policies through my company and very seldom do we pay much more than the payments but I am amazed with the reports and letters I have received pro and con on this and it seems to be a battle between the legal profession and the medical profession. And I think everybody here knows how I stand on the legal profession but this is not the case. I'd like to talk about the human side. When you look at these reports that are authenticated and I presume can be verified from both legal and medical sources that in a two-year period the premium increase has jumped 679% in just two years and from .32 a day per patient to \$2.52 a day per patient now that really is an unbelievable thing. I have a great admiration for Senator Rock's presentation of the bill. He pointed out these things very clearly and specifically and I think he did a splendid job in bringing out the facts which I think we all approve. I'm also very happy to hear what Senator Bradley had to say that he would support the bill. Being a lawyer I'm kind of surprised but I'm very happy to hear that. I think the human value is very important in this bill and it's unbelievable to know the doctors would have to live and practice their profession and live under the shadow of being sued by every responsible person who thinks he hadn't been given good treatment. If he doesn't believe in a doctor he shouldn't go to the doctor. If anything should happen to me with my doctor I think Dr. Press would be right if it was malpractice, in my particular case, I do what he tells me to do but I respect

him, I admire him and I'm certainly going to vote for the bill as presented by the chairman.

Sen. JACOBSON: Mr. President, as you all know I am not a lawyer. In fact I'm just an ordinary citizen who has gone through a nine thousand dollar medical experience and one of the things I always try to do is to learn from every experience. One thing I learned was that the medical providers make fundamental and basic errors. I'm not going to bore the Senate with that but what I've just said is clearly documentable. I have a deep concern for this problem out of my own experience. Let me first of all say that I disagree with the preparatory statement in this bill that in fact the major threat for medical provisions is insurance costs. I think Senator Trowbridge and Bradley have already alluded to that indirectly. The threat lies in the fees that are being charged by the medical providers of all sort and despite the fact that insurance costs have risen, I have found no physician yet that has gone on welfare. I believe that we ought to have reasonable costs and I can state publicly that I believe in a public health program and until we get a public health program where we do not have competition among medical providers the costs will continue to rise. I'm interested in the bill. I did notice that anybody 18 years of age or over could practice medicine if they were of good moral character. I didn't find if it was required they go to medical statute. It may be in some other statute so maybe I'll switch from being a lawyer to a medicine man. I had real problems with 329:26 which provides a confidentiality that I don't believe should exist because the net affect of that would create a possibility of covering up. I have great problems with 507c:2 in which the plaintiff shall have the burden of proving by affirmative evidence on expert testimony only and the expert testimony must come from the same person, the same kind of person as you are complaining against. Now I don't think that is a great problem for lawyers because lawyers can provide expert testimony; but I think it is a great problem for ordinary citizens and while this may be a bill for the medical practitioners and may be even for lawyers for all I know, I think it is not in the interest of the consumer. What is really in these issues in some of them are amendments that Senator Bossie is preparing. For example in 507-c:3 with regards to expert testimony. Only those who are duly qualified to render or supervise and equivalent care are the ones that can



be testified. Now what that essentially means is that the physician must testify against another physician. And that is one of the most difficult things to get into. Have one member of one profession testify against a member of the same profession. Now we have had one or two major cases but the real issue is how many cases should there be and we do not know that. One of the reasons lies in the difficulty of getting a physician to testify against another physician. What this bill does makes perfect so to speak that bond so that it will be exceedingly, if not impossible, to get testimony against malpractice. I find great difficulty with this bill and I don't have a concern about how much money that has been spent. I am sure that other people have spent equally as much time lobbying but I don't think it is going to solve the major problem and that is providing reasonable medical care.

Sen. ROCK: Senator, you expressed concern about the reasonableness of getting a physician to testify against another physician and you had some concern with that. In the highly complex and difficult areas that you are discussing in these medical malpractice cases. Would you want a plumber to testify against a physician?

Sen. JACOBSON: I think that anybody that could give evidence on the basis of an error that has been committed by medical provider ought to be allowed to testify and of course the defendant is allowed to cross-examine.

Sen. ROCK: In his area of expertise a plumber might have the ability to use his tools and whatever he uses and excise something from your sewerage system but he certainly wouldn't be competent to testify against a doctor who is using his expert tools ability and background to excise something from the body. You can't have a plumber testifying against a physician can you?

Sen. JACOBSON: If the plumber had seen an error committed by a physician I see no reason why he couldn't testify.

Sen. Blaisdell moved the previous question.

Adopted.

Sen. Bossie moved a first amendment to HB 314.

Sen. BOSSIE: Mr. President if you will look before you we have some amendments that have been xeroxed for you and in order to be fair about it I ask that each of these be

taken separately because of the nature of the beast. The first amendment is on page 10 of the test of the bill as you be so kind to look at it. Page 10 as shown on the amendment which is on page 1897 of the House digest. Mr. President, what this amendment will do is to delete this portion of the bill which would make all records of the disciplinary board or the medical association to make them not privileged or confidential so as to permit them to be used in civil proceedings. As we know from what Senator Rock was saying one under the fifth amendment of the constitution—bill of rights, cannot be forced to testify against themselves. We certainly don't want to breach that. However, when a doctor is being sued or a hospital is being sued why the confidentiality, why the privilege if somebody says something before a board why can't this be made available. The doctor or the hospital won't be sent to jail for it. I just cannot see any reason why any doctor or any board should be privileged to do something that no other person in this world would be free to do. You tell me one other profession that has that. That is just incredible. So I ask you to vote with this amendment and this isn't the most important but it is a significant one. I ask you to vote for it, it is a decent one. Doesn't take anything away from them and it certainly doesn't hurt people who have a legitimate claim and those are the only ones I care about. I don't care about the ones that don't have valid claims.

Sen. SMITH: Senator are the proceedings of the professional conduct committee of the supreme court confidential?

Sen. BOSSIE: I am not sure of that; but I will say this that I would be very pleased on any instance that you would like to try to subpoena them out of that committee. I don't think they should be for civil proceedings.

Amendment failed.

Sen. Bossie moved a second amendment to HB 314.

Sen. BOSSIE: Now this is the one that Senator Rock thought was just dandy. It provides that no medical care provider shall be required to give expert opinion, testimony against himself or herself as to any matter. But this does not apply if the medical care provider has previously and voluntarily given such expert opinion testimony favorably to himself or herself at the trial. Well this is very interesting and

certainly if we do this no lawyer would be permitted to do this if you sue him. What this would provide is that, you have Dr. Bergeron and he is sued for malpractice. I as the lawyer call you to the stand. You are on the stand I say Dr. Bergeron, tell me what medical school did you go to? and you'd say Yale. Now tell me what did they teach you about how to repair a broken leg down at Yale medical school. Under this he couldn't say. What the hell is he doing being a doctor if he can't say how he is supposed to do something. What privilege does any medical doctor or any medical professional have in not being allowed or forced to testify against himself on a civil proceeding. They are not going to go to jail. This is a very important thing. This is one of the more important ones. Why should we permit any individual to be exempt from testifying against himself in a civil proceeding is beyond me and without this justification it should not be passed. I ask you to support this amendment to delete this section, that is all it does is delete the section.

Sen. Jacobson requested a roll call. Seconded by Sen. Fennelly.

The following Senators voted yea: Jacobson, Saggiotes, Trowbridge, Bossie, Fennelly, Downing, Preston.

The following Senators voted nay: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Monier, Blaisdell, Rock, McLaughlin, Keeney, Hancock, Healy, Provost, Brown and Foley.

7 yeas      16 nays

Amendment failed.

Sen. Bossie moved a third amendment to HB 314.

Sen. BOSSIE: Mr. President the third amendment may be found on page 14 of the bill as amended. Now this is the heart of this bill. This is the Bricker amendment. This bill with this amendment is one that is aimed by the medical society against one of its own members his name is Dr. Bricker, he's from Ashland and currently he is the only doctor that I know in New Hampshire that is willing to act as an

expert witness against brothers and sisters of his profession. He is the only one that has testified, he is a medical-legal consultant and what this bill does it limits, makes the court determine who is competent to give evidence in a case as to medical injury. At the present time it is for the jury to decide what goes to the weight of the evidence. Very clear. Now what this will do is that these doctors who have their little specialties you will not be able to have anyone testify against them unless the doctor who will testify against him are specialists in that area or in that field. As we know in New Hampshire the family doctor, the all around doctor is quickly diminishing in number and the doctors that are available generally specialize in one field or the other. Now this Dr. Bricker is controversial there is no doubt about that. The fact remains that he's smut and if he is the only one around and if this bill passes there would be nobody. You won't have to worry about your malpractice cause there won't be any because you can't find a doctor to testify. I think this is a very, very important amendment and to delete it will leave the law the same way as it is now. The jury will determine who the to leave and who they won't and let me tell you one thing, I don't want know of a jury in New Hampshire that ever just believed one person in a medical malpractice case. It just doesn't happen. If you throw out just one doctor to testify against another they are going to say well, I'll believe the defendant. What you've got to do is you've got to have substantiating evidence in addition to that doctor, other witnesses. I think this is so important and I really encourage you to vote for this amendment. This is the third most important amendment I have for you today.

Sen. ROCK: Senator would you believe that the provision that you are trying to eliminate was indeed a compromise decision that was put forth by your colleagues Senator Bradley, as a part of this bill?

Sen. BOSSIE: Well, I don't believe Senator Bradley ever was considered on my side of this bill.

Sen. ROCK: Assuming that my use of the word colleague as a fellow Senator would you then believe that this is a compromise position that merely says and I'm sure some day will read or hear and I'll be very proud to hear it that the Senate I once knew, that Senator Bossie is now a federal or district court judge or supreme court judge that the judge will make the decision as to the expert qualification of the wit-



nesses. Does this mean you don't have the faith in the members of the justice who make that decision?

Sen. BOSSIE: Well not to prejudge anything I may do when I get to be a federal judge and if I do everybody better pay their taxes, I would say this that you would have no problem with me and especially in view of the fact that the sort of damage that can result here isn't one that happens to the guy that lives down there. It happens to the children and the brothers and sisters and mothers and and wives and husbands of the people in the Senate. These aren't little things, oh this is a lawyers bill we are trying to make a million dollars. It isn't. I would say what is wrong with the system now. The burden is on you to show that gee, it's not working well. These darn jurors are finding all these doctors guilty of malpractice. It's not happening. Two cases Senator. Two cases.

Sen. ROCK: I don't know your doctor Bricker so I really don't want to get into that argument of whether it is the only one who testified on these cases; I have heard people tell me that it is very difficult to get a lawyer to testify against another lawyer so that may be a problem in another area. Going back to my question earlier to Senator Jacobson you can be an expert in your field and your field might be stitching. You might be the best stitcher in the world in making hems on men's pants but that doesn't qualify you to sew up my incision for my appendix. Don't you think the expert witness should at least be as qualified as the person he is testifying against as to doing stitching on human beings not on my pants?

Sen. BOSSIE: I thought he was working on the bowel. Would you say that question again. I'm sorry I didn't catch it.

Sen. ROCK: Well the provision insurance that you are trying to wipe out, the provision insures that the expert witness would be at least as qualified as the person against whom he's going to testify. Stitches are stitches but they are not when they are in my stomach Senator.

Sen. BOSSIE: Okay, but you know why hire a defense lawyer if you are going to do this. You don't have to hire a lawyer. Here is what you do Senator and listen to me. What you do is say you represent Dr. Bergeron and Dr. Jacobson is my witness in suing Dr. Bergeron. So he talks about it he's a family doctor and Dr. Bergeron is an opthamologist, a specialist of the eyes. I get up and say I want a hundred

million dollars because my client is going to be a basket case for the rest of his life. What you are going to do is say, gee this is very interesting that if this is such a great case who is this opthamologist that they have to testify against my client. There is none. They don't have anything fined against the plaintiff bind for the defendant. That is how you do it and you'd win. Let the jury decide. They are smart. They are a lot smarter than given credit for.

Sen. JACOBSON: I think we are missing the point on this particular section in the amendment. It is not just the question of the expert witness. I have no objection at all to bringing in the expert witness who is qualified but what this section says there can be no witness to an action except that person in an expert and qualified that you are restricted from bringing in any witness. I have no problem at all with bringing in expert witnesses. I think that is part of a medical malpractice suit but this says the only people who can witness are those who are experts so that if you brought in someone who witnesses the situation who was not an expert that person under this section as adopted cannot testify. And I think that is what is dangerous about this particular section that it holds in and is exceedingly constrictive so that no one can testify except those persons whom the court finds competent and duly qualified to render or supervise equivalent care and that to me is a dangerous part of this particular of the proposed bill as it stands now.

Sen. FENNELLY: So basically what you are saying is if I'm in a hospital and I'm watching an operation up in the balcony and I see a sponge go into a patient by a doctor, this means without this amendment to this bill I could not testify?

Sen. JACOBSON: That is exactly correct.

Sen. ROCK: Senator I know you are not a justice yet and I hope as indicated to Senator Bossie some day I'll be able to say I knew Judge Jacobson.

Sen. JACOBSON: I hope you realize that ambition.

Sen. ROCK: Putting yourself in the chair of the justice and wearing your robes do you think you would be qualified as judge to determine whether the witness were expert and could testify in the case?

Sen. JACOBSON: I don't know as I said I'm not into prosthetics as fortelling but only as fortelling but I think that if the person presented himself with his documentary evidence to be an expert witness I think I could make that

judgment but that is not the issue. I have no problem with expert witnesses coming in, my problem is that no witness except expert witnesses come in. Take for example if I should go into the room of a patient and I see a nurse doing something that obviously is causing an error or problem of that patient I cannot testify that I saw that happen under this proposal you have now. That's all I'm saying. You can have all the expert testimony you want. I have no problem at all with that. What I have a problem is that the only testimony in a malpractice suit is that of an expert witness and I think that is wrong.

Sen. Bossie requested a roll call. Seconded by Senator Fennelly.

The following Senators voted yea: Jacobson, Trowbridge, Keeney, Hancock, Provost, Brown, Bossie, Fennelly, Downing, Preston.

The following Senators voted nay: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Saggiotes, Monier, Blaisdell, Rock, McLaughlin, Healy, Foley.

10 yeas 13 nays

Amendment failed.

Sen. Bossie moved a fourth amendment to HB 314.

Sen. BOSSIE: Mr. President amendment number four is found on page 15 of the bill as amended by the House. This is the amendment entitled Statute Limitations, 507-C:4. Mr. President, members of the Senate, as you know, in New Hampshire now, the statute of limitations on professional liability for everyone is six years. What this bill will do is bring it down to two years and there is a provision if you are a little kid you've got until 10 years old to find out you got something wrong with you and you've got to bring suit by that time. Also, it provides that if you have a foreign object in your body and if you don't discover it then you have two years from the time you discover it to bring a legal action. I have no great problems with limiting the time for the statute of limitations if it will make our medical profession sleep bet-

ter at night. But why do we have to let them off the hook in four years, in two years when the rest of the professions have a six year statute of limitations and it might be interesting for you to note a recent case that came down in the supreme court against a lawyer and a very well known one too, who happens to be a commissioner and a lawyer. He missed the statute of limitations on a case, oh about 15 years ago and his client found out about it from talking with another lawyer, that he might have a cause of action against his lawyer. Well sure as hell he brought a suit against his lawyer for malpractice and the supreme court has held New Hampshire for a lawyer you have six years from the time you discover the error. In other words, if I do a title search for you 30 years now you go to sell your house and you find out I goofed it, you got 46 years statute limitations. Now we are going to do it for the wonderful profession, down the tube. My amendment before you is to bring it to four years so the wording will be should commence within four years, four and four and I'm not doing a thing with the minors inasmuch as I feel that I should. Now a compromise is a compromise but if you are going to do this, you are going to put it two years why, not make it 60 days? Why not make it 30 days to bring suit then you won't have to worry about this because there won't be any malpractice actions and everybody will be happy. I don't like them either; but if you have something wrong and if there is a stumble, why shouldn't the individual or hospital be responsible? That's all. It is not to get money out of a deep pocket. This is a very, very reasonable amendment a four year statute of limitations. I don't see how anybody could want to do anything else but that. Frankly, I served on the commission that studied this bill last summer and hey, I was full of compromises then. Do you think they talked to me once about a compromise? No. They had the votes then. I've heard all along out in the hall don't even fool around with the amendments, don't even try to make the bill better. We've got the votes. You are not going to pass even one of your amendments. That may be but I want to try and this four years is decent. That is the name of the game being a senator, try to be responsible. I ask you to vote for this amendment.

Senator Bossie requested a roll call. Seconded by Senator Fennelly.



The following Senators voted yea: Jacobson, Trowbridge Hancock, Provost, Bossie, Fennelly, Downing Preston.

The following Senators voted nay: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Saggiotes, Monier, Blaisdell, Rock, McLaughlin, Keeney, Healy, Brown, Foley.

8 yeas     15 nays

Amendment failed.

Sen. Bossie moved a fifth amendment to HB 314.

Sen. BOSSIE: 507-C:6—Elimination of Ad Damnum. Now on this one if any of you want to be fair, listen to me. But Frank Whaland the Commissioner of Insurance who wants this bill does not want this amendment or he wants the amendment, he does not want this section. He appeared at the hearing and said I am not in favor of this amendment which would eliminate the ad damnum. Ad damnum is a latin term meaning whatever your damages are. Normally when a lawsuit is brought you put in your writ how much you want. If you want \$50 you put \$50. If you want \$100,000 you put it. You put it high and hope for a little. What happens when you have a case to this nature as I said before the jurors they are right off the farm. And what they don't know what you're looking for. What the bill will do is say you can't tell them what you are looking for. Don't tell them keep them in the dark and then if they give you too much strike it out. What an awful way to work. What this would do if we eliminated it is to say to them fine, ladies and gentlemen of the jury, what we want is a \$100,000 dollars in this case because Dr. so and so cut off the wrong arm and this happens. It does happen. This isn't for some crazy thing that is just out of the sky. These things happen and what is so wrong about telling somebody what you want. If you want to sell me your car you tell me how much it cost. If I want to buy your insurance I say how much is that and you say this is it, and if you don't want it, good buy. I really would find it very difficult to believe that in view of the situation and in view of the reasonableness by the members of this Senate particularly when you know that I favor with these amendments and it's getting

worse all the time. But with the amendments and with this one in particular and one other at least palatable, that is all that I ask.

Sen. BRADLEY: There is a question about this section which I pointed out to my friends in the medical profession and I was hopeful that it would be taken care of and it hasn't been. The problem from the doctor's point of view here in this area is that a couple of things. They get sued for five million dollars and it becomes a headline and Dr. Jones sued for five million dollars and it makes great press and it may be very traumatic and damaging to any doctor who is sued in those kinds of figures as anyone might realize. The case may be settled three years later for a thousand dollars of nuisance fee value. That kind of thing is never reported or if it is reported it is buried. That is a problem which I'm willing to attempt to cure. The doctor's also have the belief which I don't really share that you can get a jury to award excessive damages simply by asking for excessive damages and waiving the ad damnum figure in front of the jury which you are now entitled to. I don't think that makes a difference on what juries award. I think juries award based on what the evidence shows not on what the lawyer is able to waive around on final argument. The problem in this bill that I have with it is somewhat of a technical one of this particular section where there are reasons why you need to know how much the other side is suing for. You need to know the purpose of the insurance coverage whether you've got coverage problem or not and so there is a provision in here for getting or finding out from the plaintiff what is the ad damnum. What is your maximum claim? Fine. He finds it out. But the last sentence is the one where the problem comes to my mind. The information provided in response to the special interrogatory shall not be admissible in evidence at trial, nor shall it be communicated to the jury in argument or otherwise. Now what bothers me there it seems to me that if you read that literally I'm afraid some judge may, it seems to say that you aren't entitled to talk about the information that you put in those special interrogatories as to how you arrived at your special damages. I don't think that is the intent. I talked with Mr. Gross about this and I've explained my concern about this problem to the doctors. Really, all they are trying to say is you can't waive the figures, unsubstantiated before the jury. All I'm saying is I don't consider this section all that impor-

tant. If Senator Bossie's amendment were to pass I would propose an amendment of my own which would make that last sentence say that the total damage figure can't be used; but the information which you give in your special interrogatory could be used. Obviously it has to be.

Sen. ROCK: Senator Bradley, I have an article in front of me entitled "The Work of the Medical Professional Liability Commission and the commission on medical professional liability of the American Bar Association submitted an interim report to its House of Delegates in August 1976 describing its work during its first year and its plan for '76-77 and it makes clear 18 positions and two proposals under consideration that they recommend for adoption and item three, the commission is composed of practicing lawyers, judges, physicians, insurance representatives those I consume to consumers and it describes the approaches in the works of the commission. Item three it says ad damnum causes in pleadings should be eliminated. Do you subscribe to the theory of the American Bar Association report on the report Commission on Medical Professional Liability?

Sen. BRADLEY: Yes. I have no problem with that. Particularly in this area where the doctor is considered a big part of the damage is the publicity of the thing. I have no problem whatsoever initiating your claim without specifying the amount of damages. I have no problem in the amount of damages being discovered through a special interrogatory. My problem simply is that once you go to trial and your arguing everything has been presented, how many weeks of lost wages, how much your medical bills are, how much your doctor's bill are, how much you had to pay for this and you talk about inconvenience, the pain and suffering you are necessarily going to talk about figures and it seems to me you can't be precluded from that point from saying our damages add up to something, make a claim. That is all I'm saying.

Sen. TROWBRIDGE: One thing though that I don't see in the bill. You can't put it in your pleadings. What is to prevent an attorney from simply going to the press? Saying a press release I am suing this guy we hope to get five million dollars. What is the difference?

Sen. BRADLEY: I don't think the law prevents that. There is a cannon that I think probably would constrain that something about trying your case in the newspaper. I can't quote you the cannon.

Sen. TROWBRIDGE: It does it now and they do it all the time.

Sen. BRADLEY: They may at least under the cannons of the ABA which New Hampshire subscribes to I think that would be prohibited.

Sen. FENNELLY: Mr. President, I arise in support of Senator Bossie's amendment. Four of his amendments have already been defeated but it is my opinion to restrict the jury from knowing the amount you are going to sue for. There are many cases where a plaintiff will come in and show no basically no bodily injury but as the testimony goes on within the trial the lawyers to a great degree will try to bring out this fact. If you go to a jury and you have two arms cut off the jury of course will be very sympathetic to you. But I think if this amendment is not passed to restrict the jury to know at the very beginning the magnitude of the case on the amount of money. I realize you can sue for any amount but if this amendment is not passed I would like to know what the little boy in Portsmouth that received a million and a half dollars and if this isn't passed I wish he would have been awarded ten million dollars.

Sen. Fennelly requested a roll call. Seconded by Senator Bossie.

The following Senators voted yea: Trowbridge, Keeney, Hancock, Bossie, Fennelly, Downing, Preston.

The following Senators voted nay: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Jacobson, Saggiotes, Monier, Blaisdell, Rock, McLaughlin, Healy, Provost, Brown, Foley.

7 yeas 16 nays

Amendment failed.

Sen. Bossie moved a sixth amendment to HB 314.

Sen. BOSSIE: The bill reads this way the damages awarded may include compensation from pain and suffering or other noneconomic loss however compensation for noneconomic losses shall in no event exceed the sum of



\$250,000. I've brought up to you the example of the individual who has the wrong leg cut off. What we all have to determine for ourselves is what is the value of paying and suffering for every day for the rest of our lives for the loss of a leg. I am unable to put an exact value. But if somebody cut off your leg and say it is a young person 40 years old and the life expectancy is 31 years and say for cutting off the leg we give somebody \$10 a day, let us give him \$1 an hour for the use of his leg that he will never have again \$24 a day, 7 days a week for 31 years what does that figure out to? What is the worth of a leg or an arm or whatever part of the body we are talking about involving malpractice. Often there is death involved. What is a life worth? Is it \$250,000, shall we sell out bodies for that? This is an arbitrary figure on my part. In view of expenses today of pain and suffering I think it is fair and I ask my colleagues to vote yes on this amendment.

Amendment failed.

Sen. Bossie moved a seventh amendment to HB 314.

Sen. BOSSIE: Now there is nothing in here that they shall make periodic payments with interest. It is a way to have fifty thousand dollars now is worth fifteen thousand dollars ten years from now and so anyone is going to have their awards paid out over a period of time certainly should have at least the minimal amount of interest of 6% or 10%. You can bet your bottom dollar the insurance companies get more than 10%. So I ask the Senate to delete this section of the bill. It is for the insurance companies and if people want to get paid over a period of time they can arrange it privately with the insurance companies.

Sen. ROCK: Senator Bossie I tried in my original presentation to give an example why the spreading out of payments might be of benefit I wonder if you tell me your opposition to the spreading out of payments might be because the lawyers would have to wait for his payments to be spread out a little further and he would want to get his all in a lump sum first?

Sen. BOSSIE: Let me tell you as far as I know the lawyer would get paid in the first instance anyway. So it wouldn't make any difference to the lawyer. I think the opposition of yours the lawyers getting paid and insurance companies keeping the money just has no justification and so if we are going to argue the merits let us put on the benefit of the

people not the benefit to the lawyers or insurance companies. It is a good, reasonable, sane, not withstanding Senator Lamontagne, argument.

Amendment failed.

Sen. Bossie moved an eighth amendment to HB 314.

Sen. BOSSIE: Mr. President the eighth amendment is found on page 18 of the bill. This is an amendment to delete that whole section with regards to contingent fees. Those of us who sat in the commission studying the problem of medical malpractice did to some extent researched the matter of contingent fees. Those of us who sat in the commission studying the problem of medical malpractice did to some extent researched the matter of contingent fees as being a method of increasing cost to doctors. As I told you if we are going to make contingent fees for plaintiff's lawyers, let us limit fees for defense lawyers and we will see some screaming. Every lawyer like Senator Bradley has one or two of his friends and clients and everybody represents a doctor. Have you ever wondered why no lawyers are around. The fees established by this bill aren't bad. They are fair. I have no problem with that. The problem that I have is the principle. Why don't we set up fees for doctors. If they fix a broken leg charge \$75 or \$50. Now we've heard Blue Cross Blue Shield does this anyway. That is a contractual arrangement between a doctor and a private group. Do that with lawyers. But we are saying the state as a policy shall make determination of who is to get paid what. Now if there is one thing that is going to break the back of this bill, you sponsor's should pay heed to this, it is going to be unconstitutional if this is left in here because you are interfering with the contractual rights of people. The whole basis for contingent fees as we know is to allow the poor people the same right as rich people to get the best lawyer in town. If we pass this there will probably be some individuals who may not want to handle this type of case in New Hampshire and that is fine. I have no problem with that. But for the fact we are going to do it to the rich, should do it for the poor and vice versa. It is a bad policy for us to get involved with setting doctors fees, setting lawyer's fees, nursing fees or anyone else and frankly not withstanding the reasonableness of these fees as established is a bad

position to get ourselves into and I ask the Senate to vote to concur with me in this amendment.

Sen. Fennelly requested a roll call. Seconded by Sen. Bossie.

The following Senators voted yea: Hancock, Bossie, Fennelly.

The following Senators voted nay: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Jacobson, Saggiotes, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Healy, Provost, Brown, Downing, Preston, Foley.

3 yeas      19 nays

Amendment failed.

Sen. Bossie moved a ninth amendment to HB 314.

Sen. BOSSIE: Mr. President this is floor amendment number 9 and hopefully the lobbyists will not have seen this by now it was just handed out so we will have to have independent judgment on the bill which will be interesting. Senator Bradley had some objection to elimination of ad damnum so that is fine. What we've got here is a bill that would say okay, you don't tell them what you want to keep them in the dark. It is better for justice if they don't know what they are doing. What we do though is add at the end provided that nothing herein shall prevent an injured party through council from specifying to the court and jury and nature and amount of injury disabilities and damages in the amount sought as reasonable compensation therefor in accordance with the law. Now that I think will take care of what he had, the problem with and I would hope that he would support it and hope the rest of you would.

Sen. BERGERON: Mr. President, looking at the title of this we've already handled this topic is is this amendment in order?

Sen. BRADLEY: Senator Bossie has done good work in a way here. I'll be very candid. This is exactly what meets my point, I have told my good friend the doctor I would not be the one that causes an amendment to this bill. They fear the

thing going back to the House. I don't quite accept that fear that this is going to destroy the bill because the House gets another look at it. My feeling is that it is part of the legislative process and I can't very well vote against something which is clearly an improvement in the bill. But I want people to know this did not come from me. Senator Bossie anticipated my remark apparently. This amendment is clearly in my mind a justified amendment.

Sen. MONIER: Is it correct or incorrect that what Senator Bergeron states that we are actually dealing in different names and different terms and different words a subject that has already been voted on in one of the amendments that has been turned down?

Sen. BRADLEY: No. The previous amendment that dealt with this section was to strike out this section. I pointed out a problem which I had with it for the purpose of establishing legislative intent as to the meaning of the last sentence. What Senator Bossie is now proposing is to include the entire section as it is in the bill with an added proviso so it is really a different issue.

Sen. MONIER: But you do agree that we have already voted on this section on a different thing in terms of eliminating this section?

Sen. BRADLEY: That is right.

Sen. Bossie requested a roll call. Seconded by Senator Downing.

The following Senators voted yea: Bradley, Jacobson, Trowbridge, Keeney, Hancock, Provost, Bossie, Fennelly, Downing, Preston.

The following Senators voted nay: Lamontagne, Poulsen, Smith, Gardner, Bergeron, Saggiotes, Monier, Blaisdell, Rock, McLaughlin, Healy, Brown, Foley.

10 yeas      13 nays

Amendment failed.

Sen. Bossie moved a tenth amendment to HB 314.

Sen. BOSSIE: Mr. President I have one further amendment. Mr. President, all afternoon we've been hearing from



Senator Rock, Senator Bergeron, on how the insurance rates in New Hampshire have been going skyward this amendment is going to do something about it. It says that the insurance commissioner every year shall establish premiums for malpractice insurance and he shall establish reasonable rates for insurance against liability from medical injuries in New Hampshire which rates shall reflect claims experience involving only New Hampshire medical care providers. It shall take into consideration any income earned by the affected companies through investment premiums paid to them for medical liability insurance. No that is the crux of it. We now in New Hampshire are paying malpractice insurance and I say this as a lawyer, my insurance premiums have gone up 300% not the 600% that the good Senator from Nashua has said. But at the same time I have no problem with that, they are very low and very reasonable. What this will do is we'll say, look, insurance Commissioner, set your rates at whatever you think is reasonable, but do it on New Hampshire experience. When you only have two cases against doctors being successful, how can you possibly base your rates on what is happening in California, New York, where there are plenty of quacks. This is a very reasonable approach to it all and if you want to do something about malpractice premiums in New Hampshire, let us vote for this amendment.

Sen. LAMONTAGNE: Mr. President, I arise in opposition to the proposed amendment. I have had the experience with Commissioner Whaland at the time Dr. Barber was facing a serious problem. We do not have to enact into the law to have Commissioner Whaland, our commissioner of insurance, to do what is right for our doctors. I have witnessed what he did for Dr. Barber of Berlin, New Hampshire and you don't have to legislate to tell him what to do.

Sen. BERGERON: Mr. President I arise in opposition to the amendment. It is a last ditch effort to scuttle a bill. Everything in here is covered either by statute or by regulation. The whole thing is innocent we have most of it on the statute. It serves no useful purpose. It is just another delaying tactic.

Sen. BRADLEY: This amendment would require the premiums to be based only on the, I'm trying to find it in the thing, take into consideration which rates shall reflect the claims experience involved only New Hampshire medical

care providers, now that would be a change in the law would it not?

Sen. BERGERON: If you ever passed that senator and you had one Portsmouth situation you have that case I described earlier in my testimony and you think medical malpractice rates are high now forget the thing because there will be no such thing.

Sen. BRADLEY: Well it would be a change in the law?

Sen. BERGERON: A bad change.

Sen. BRADLEY: Why would I, I don't understand why an amendment will scuttle the bill, could you explain that to me?

Sen. BERGERON: If you ever passed that Senator and you certain that it would. Too many people have worked too hard to have someone try to scuttle it. We've been told by a number of people that there are certain elements in the House and you know what is going to happen Senator, let us be practical and realistic. If that bill goes back there, they are going through the same mish-mash garbage that we went through here this afternoon and maybe they may be more tired than we are and there may be funny things happen on the way to the forum. You have a chance to take care of the problem here and I think we should do it.

Amendment failed.

(Sen. Bossie, Downing recorded in favor of the amendment.)

Sen. Fennelly moved a further amendment to HB 314.

Sen. FENNELLY: My amendment is not like the Bossie amendments. Basically, what it does is to put another group under this medical care provider act and its chiropractors and basically you've got the nurses under it, you got physicians, so why not put the chiropractors under this bill. I realize there is a great fear that if the bill has an amendment, it is going to go back to the house and get all chopped up. I don't believe that and since they work on the human body not quite as much as doctors but more than nurses they as medical men should fall under this bill. I don't know why anybody didn't think about it before. I urge you to support the Fennelly amendment.

Sen. BOSSIE: Senator, does this include the straights and the mixers and do they finally agree on something?

Sen. FENNELLY: All of them. They want it. They love it. They need it!

Sen. Bossie requested a roll call. Seconded by Sen. Fennelly.

The following Senators voted yea: Saggiotes, Bossie, Fennelly, Downing.

The following Senators voted nay: Lamontagne, Poulsen, Smith, Bradley, Bergeron, Jacobson, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Healy, Provost, Brown, Preston, Foley.

4 yeas 18 nays

Amendment failed.

Question of ordering to third reading.

Sen. Lamontagne moved the previous question.

Adopted.

Ordered to third reading.

### SUSPENSION OF RULES

Sen. Smith moved that the rules of the Senate be so far suspended as to allow HB 314 be placed on third reading and final passage at the present time.

Adopted.

### Third Reading and Final Passage

HB 314, improving procedures for the medical board for supervising, medical practices and stabilizing medical liability claims.

Adopted.

Sen. Bergeron moved reconsideration on HB 314.

Motion failed.

### HOUSE MESSAGES HOUSE REQUESTS CONCURRENCE IN AMENDMENTS

**SB 105**, relative to registration fees for foreign non-profit corporations.

Sen. Brown moved to concur in the amendment.

Adopted.

See House Record.

HOUSE REFUSES TO CONCUR  
REQUESTS A COMMITTEE OF CONFERENCE

HB 79, relative to the location of cemeteries.

The Speaker has appointed Reps. Raymond Conley, Ruth Griffin, Margaret Hartford and Ovila Gamache.

Sen. Monier moved to accede to the request of the House.  
Adopted.

The Chair appointed Sens. Monier, Poulsen, Healy.

HB 244, relative to compensation of deputy registers of probate.

The Speaker has appointed Reps. Richard Hanson, Beverly Gage, Armas Fillback and Daley Whipple.

Sen. Provost moved to accede to the request of the House.  
Adopted.

The Chair appointed Senators Provost, Monier and Preston.

HB 1181, relative to prorating motor vehicle permit fees.

The Speaker has appointed Reps. K. Michael Tavitian, Kenneth Stockman, Elmer York and Bruce Rounds.

Sen. Gardner moved that the Senate accede to the request of the House.

Adopted.

The Chair appointed Sens. Poulsen, Healy and Lamontagne.

HB 856, relative to the inspection of used motor vehicles offered for sale by retail dealers.

The Speaker has appointed Reps. John Morgan, Harold Burns, Robert Plourde and M. Susan Found.

Sen. Gardner moved that the Senate accede to the request of the House.

Adopted.

The Chair appointed Sens. Poulsen, Lamontagne and Fennelly.



HB 213, relative to reconsidering an action taken at a town meeting, village district or school meeting district.

The Speaker has appointed Reps. Ezra Mann, John Bednar, Roger King and John Burke.

Sen. Trowbridge moved to accede to the request of the House.

Adopted.

The Chair appointed Sens. Trowbridge, Monier, and Hancock.

HB 227, relative to procedures for appointment and removal of the deputy commissioner of safety.

The Speaker has appointed Reps. Sara Townsend; Beatrice Laycock, Geraldine Watson and L. Penny Dion.

Sen. Monier moved to accede to the request of the House.

Adopted.

The Chair appointed Sens. Monier, Poulsen and Blaisdell.

HB 57, relative to security deposits of tenants of residential premises.

The Speaker has appointed Reps. Walter Lefavour, Phyllis Pucci, Bruce Rossley and Ednapearl Parr.

Sen. Bossie moved to accede to the request of the House.

Adopted.

The Chair appointed Sens. Bradley, Keeney and Fennelly.

HB 249, relative to personnel of certain agencies which receive federal grants-in-aid.

The Speaker has appointed Reps. Elmer Close, Stuart Trachy, Roderick O'Connor and Donna McEachern.

Sen. Brown moved to accede to the request of the House.

Adopted.

The Chair appointed Sens. Monier, Brown and McLaughlin.

HB 284, relative to transfers of classification in the retirement system.

The Speaker has appointed Reps. Elmer Close, John Tucker, Richardson Benton and Roderick O'Connor.

Sen. Trowbridge moved to accede to the request of the House.

Adopted.

The Chair appointed Sens. McLaughlin, Provost and Sanborn.

HB 261, to reimburse the town of Dummer for revenue lost due to the taking of Pontook dam and making an appropriation therefor.

Sen. Trowbridge moved to nonconcur with the request of the House.

Adopted. (Sen. Lamontagne recorded in opposition.)

#### HOUSE ACCEDES TO REQUESTS FOR COMMITTEES OF CONFERENCE

**SB 249**, relative to the definition of rule in the administrative procedures act.

The Speaker appointed Reps. Frederick Aldrich, Beatrice Laycock, Zoe Vrakatitsis and Roderick O'Connor.

CACR 13, relative to legislative districts. Providing that a town, ward, or place may be referendum request that the legislature divide it into two or more representative or senatorial districts.

The Speaker appointed Reps. Harold Buckman, Grace Joncas, Mark Connelly and Helen Maloomian.

**SB 258**, permitting veterans of the Viet Nam conflict the use of armories for meetings and requiring not less than 90 consecutive days of service to qualify for tax exemption.

The Speaker appointed Reps. Ednapearl Parr, George Soucy, Merle Eaton and Catherine-Ann Day.

**SB 280**, relative to motor vehicle inspections.

The Speaker appointed Reps. Theodore Karnis, Arline Dion, Oliver Akerman and W. Murray Clark.

**SB 6**, providing for a power of attorney which survives disability or incompetence of the principal.

The Speaker appointed Reps. Philip Currier, Harold Rice Douglas Aller and Daniel Eaton, Arthur Perkins.

**SB 101**, relative to allowable uses of written reports filed after an accident.

The Speaker appointed Reps. Irene Shepard, John Sing, Robert Erler and Elmer York.

**SB 40**, repealing certain provisions currently included on tangible property inventory blanks.

The Speaker appointed Reps. Marjorie Peters, Dorothea O'Neil, Kenneth Smith and Gerald Belanger.

**SB 7**, establishing retirement and permanent disability benefits for district court justices.

The Speaker appointed Reps. Philip Currier, Richard Poulin, Josephine Martin and James Carpenito.

## HOUSE CONCURS IN SENATE AMENDMENTS

**HB 853**, relative to the distributorship disclosure act.

**HB 1117**, providing for the local regulation of excavations.

**HB 754**, granting authority to the commissioner of health and welfare to appoint acting directors of the divisions of the department.

**HB 78**, increasing the fees for hunting and fishing licenses; revising the fees for members of the armed forces; requiring an agents' special accounting for the period ending June 26, 1977; and making an appropriation therefor.

**HB 408**, authorizing savings banks to lend investment securities and to make prudent investments otherwise prohibited by certain sections of RSA 387.

HB 126, relating to certain acts prohibited by insurance company officers and directors.

HB1078, relative to the establishment of a permanent sub-committee on architectural barrier free design on the governor's committee on employment of the handicapped.

HB 679, relative to the fees for licensing dogs and dog keepers or breeders and requiring a health certificate on dogs sold by breeders and providing a late fee for failure to procure a license prior to June 1.

HB 993, relative to the regulation of the sale of variable contracts.

HB 782, relative to effective dates for laws which have a municipal fiscal impact.

HB 280, relative to ownership of certain unlicensed dogs and the penalty involved for not licensing a dog.

HB 229, amending certain provisions of the statutes relative to OHRVs.

HB 629, altering gross weight and axle distribution limits for 5 axle trucks; providing for an increase in registration fees; and limiting vehicle loads to the rate capacity as determined by the manufacturer.

HB 790, relative to cancer drug therapy.

HB 894, providing opportunity in public education without discrimination.

HB 242, restricting the horsepower of motorboats operating upon White Oak pond in Holderness.

HB 217, relative to tuition for foster children and relative to providing liability insurance for individuals providing foster care.

HB 802, relative to the system of birth registration.

HB 286, relative to the appointment and qualifications of the fish and game commission and providing for the appointment and removal of the director of the fish and game department.

HB 1055, prohibiting the Rockingham county attorney from engaging in the private practice of law.

HB 828, creating the position of deputy commissioner of health and welfare.

HB 89, relative to the licensing process and license fees for hospitals and medical institutions or facilities.

HB 149, increasing fees for lobster, clam and oyster licenses, providing a penalty for misuse of lobster and clam licenses and removing the residency waiver for lobster and clam licenses.

HB 207, relative to hunting with bow and arrow.



HB 313, prescribing the manner of posting land and providing a penalty for trespassing on posted land.

HB 881, relative to the recovery of local assistance.

HB 381, repealing the unfair sales act.

HB 258, restricting the disposal of high level nuclear wastes in the state and within the coastal jurisdiction of the state.

HB 382, relative to the jurisdiction of district courts in criminal matters.

HB 858, correcting errors, omissions and inconsistencies in the RSA and session laws and conforming existing law to the criminal code.

HB 926, amending the town charter of Hanover allowing selectmen to establish one or more parking districts.

HB 235, to permit stolen and other property to be restored to rightful owners in advance of trial or appeal.

### HOUSE REFUSES TO CONCUR

SB 112, authorizing payment to the city of Concord for use of solid waste disposal facilities by the state.

SB 296, relative to the expenses of the division of municipal accounting in the performance of its audit functions.

SB 306, authorizing the governor to enter into a contract with schools of dental medicine to guarantee openings for qualified New Hampshire students and making an appropriation therefor.

SB 274, relative to licensing automobile insurance appraisers.

SB 254, eliminating the one year full pay provision for totally disabled classified state employees.

SB 338, relative to investigations of the state fire marshal.

SB 214, prohibiting the possession or sale of devices used to defraud communications companies.

SB 172, relative to parental responsibility.

SB 261, relative to the service of writs and other processes.

SB 268, relative to the rights of law enforcement officers.

SB 88, relative to workmen's compensation coverage for domestic and casual employees.

SB 357, relative to sovereign immunity of the state.

SB 277, amending the state industrial development act and reclassifying a portion of Pennichuck brook.

SB 169, relative to parking permits for handicapped persons.

Sen. Bradley served notice of reconsideration on HB 640.  
Sen. Blaisdell served notice of reconsideration on HB 690.  
Sen. Brown served notice of reconsideration on HB 803 and  
HB 686.

Sen. Brown moved to recess until Monday at 9:00 a.m.  
Adopted.

## *Monday, June 13*

Out of Recess.

Sen. Sanborn in the chair.

### HOUSE MESSAGES HOUSE CONCURS IN SENATE AMENDMENTS

HB 703, establishing a standard dog control law if adopted by a city or town.

HB 1143, relative to unemployment compensation RSA 282.

HB 1024, applying the settlement law to municipal contributions for old age assistance and aid to the permanently and total disabled.

HB 142, limiting smoking in places of public assembly to designated areas.

HB 620, relative to contributions in the unemployment compensation law.

HB 300, permitting a patient to direct the withdrawal of life-sustaining measures under certain circumstances.

HB 1113, permitting the withdrawal of a pre-existing district from a cooperative school district.

HB 696, eliminating the requirement of advertising a lost passbook.

HB 1193, reinstating save the Mill Society as a voluntary corporation.

HB 971, removing minor officials from the biennial ballot.

HB 1141, establishing a New Hampshire right to privacy act.

HB 739, relative to control of explosives.

HB 1130, relative to the dispensation of controlled drugs.

HB 814, amending the eminent domain procedure act.

## HOUSE REFERRED TO INTERIM STUDY

**SB 364**, relative to training in osteopathic medicine and making an appropriation therefor.

**SB 336**, relative to home warranties.

**SB 316**, establishing a surrogate parent program in New Hampshire.

## HOUSE CONCURS

**SJR 3**, requesting the judicial council to study the problems of collection on judgments and issuance of executions and to propose corrective legislation.

**SB 234**, allowing a member of the retirement system on insurance disability to continue to pay into the retirement system.

**SB 93**, clarifying the legislative intent of RSA 149-G:2 concerning the extent to which the state shall assume contractual obligations for the design of municipal sewage disposal systems.

**SB 288**, relative to nursing home administrators.

**SB 324**, requiring an annual financial statement from a person, association or corporation conducting horse or dog races or meets.

**SB 345**, making a supplemental appropriation to nurses registration.

**SB 144**, amending the definition of a "dam" in the RSA chapter on dams and flowage.

**SB 181**, amending certain provisions of the land sales full disclosure act.

**SB 102**, relative to an adult tutorial program and making an appropriation therefor.

**SB 347**, providing for additional staff and upgrading certain facilities at Laconia State school and training center and making an appropriation therefor.

**SB 180**, improving the manner of creating and maintaining condominiums and providing for full disclosure in condominium sales.

**SB 283**, relative to motor vehicles declared to be totally damaged.

**SB 285**, relative to the accelerated Federal-Aid highway construction program.

**SB 82**, relative to the director of forest and lands and the director of parks.

**SB 103**, specifying certain items for the state prison in the 1975 capital budget.

**SB 134**, relative to reforestation of land.

**SB 128**, to include licensed pastoral counselors in the category of services authorized under minimum mental illness coverage under major medical and non-major medical accident and health insurance.

**SB 113**, providing for a master plan for state land use in the city of Concord.

**SB 120**, relative to including investigators in the office of the attorney general in the definition of law enforcement employees entitled to additional salary increases.

**SB 148**, continuing the public defender system in Merrimack and Hillsborough counties for 2 years and extending the same program to Rockingham county.

**SB 161**, making a supplemental appropriation to the department of administration and control.

**SB 202**, relative to appropriations for the rehabilitation of the memorial bridge in Portsmouth.

**SB 216**, providing for the replacement of the Cannon Mountain aerial tramway; making an appropriation therefor; and, establishing a special account for the income from tramway service charges for operating costs and amortization of the appropriation.

## INTRODUCTION OF SENATE BILL AFTER THE DEADLINE WITH THE APPROVAL OF 2/3 OF THE JOINT RULES COMMITTEE

### First and Second Reading & Referral

**SB 371**, to repeal charters of certain corporations. To Administrative Affairs.

## SUSPENSION OF RULES

Sen. Jacobson moved to suspend the rules of the Senate for **SB 371** with respect to printing, notice of public hearing, and introduction of a committee report without proper notice in the journal at the present time.



Sen. JACOBSON: This is a simple bill. It is only about 100 pages. It is the bill that is required by the Secretary of State's office regarding corporations that have defaulted, gone out of existence, and this and that and the other thing. It is a bill that comes in every two years and it lists all of the corporations that have defaulted or gone out of business so as to clear their books on corporations.

Sen. LAMONTAGNE: Senator I remember that something similar to this happens every two years but these are all the people that are not in business now and the corporations have gone out, is that what it is?

Sen. JACOBSON: That is what it is or have not paid their fees.

Adopted.

### COMMITTEE REPORT

SB 371, to repeal charters of certain corporations. Ought to pass. Sen. Jacobson for the committee.

Adopted. Ordered to third reading.

Sen. Keeney moved that HB 799 be taken from the table.  
Adopted.

HB 799, including divorce among the events that are reportable to the registrar of vital statistics.

Sen. KEENEY: Since I was the one who put 799 on the table I would like to explain why and why I feel now that it and the amendment as it was adopted in the Senate should be now ordered to third reading. There was some question in the minds of the personnel at the bureau of vital statistics and among some of the town clerks in the areas bordering Massachusetts whether or not a bill which we had passed, HB 801 and one which we had reported as inexpedient, were together, going to take care of the situation when Massachusetts residents appear for New Hampshire city and town clerks to get a marriage license before their divorce in Massachusetts becomes final. Talking with Representatives from the two groups who were mostly interested, they now feel that the law that we passed is going to be adequate pro-

tection for them. Therefore, it wouldn't be necessary to amend HB 799. So at this time I hope you will pass HB 799 with its amendment that is already adopted on to third reading.

Adopted. Ordered to third reading.

Sen. Brown moved reconsideration on HB 803.  
Adopted.

Sen. Brown moved that HB 803 be placed on second reading at the present time.  
Adopted.

HB 803, relative to insuring the proper disclosure of information from vital records.

Sen. Brown offered an amendment to HB 803.

#### Amendment to HB 803

Amend RSA 126:14, III as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

III. Commercial firms or agencies requesting a listing of names and addresses, except a consumer reporting agency as defined in RSA 359-B:3, shall not be considered to have a direct and tangible interest.

Sen. BROWN: These two bills, 803 and 686 are companion bills that came on the floor last Thursday. It was stated in the calendar that they were to pass with committee amendment, that was the committee report. Inadvertently the committee amendment was not printed in the calendar, although I did explain the bills and the amendments. Therefore the amendment was not put in the journal as it should have been so to make it legal and get it in there I distributed them all to your desks. On 803, the bill clarified who shall have a direct and tangible interest in such records as it pertains to the bureau of vital statistics. All the amendment does, roman numeral 3, page 2 at the top, it gives an exception. Commercial firms or agencies requesting a listing of names and addresses shall not

be considered too have a direct and tangible interest except, and this is the amendment, except the consumer reporting agency as defined in RSA 359b shall not be considered to have a direct and tangible interest. That is, if anyone wants to verify an age, only the vital statistics that they have. They do not have any records of any description when it comes to financial things, it is strictly vital statistics in relation to age.

Amendment adopted. Ordered to third reading.

Sen. Brown moved reconsideration on HB 686.  
Adopted.

Sen. Brown moved that HB 686 be placed on second reading at the present time.  
Adopted.

HB 686, relative to the duties of persons involved with vital statistics.

Sen. Brown moved an amendment to HB 686.

#### Amendment to HB 686

Amend RSA 126:24, I as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

I. Any person having knowledge of and a direct and tangible interest in the facts shall furnish such information as he may possess regarding any birth, death, fetal death, marriage or divorce upon demand of the state registrar of vital statistics.

Amend RSA 126:24, III as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

III. Except as otherwise provided any person shall be guilty of a misdemeanor if he willfully and knowingly transports or accepts for transportation, internment or other disposition of a dead body without an accompanying permit when required pursuant to RSA 290.

Amend RSA 126:24 as inserted by section 1 of the bill by inserting after paragraph III the following new paragraph:

IV. Except as otherwise provided any person shall be guilty of a violation if he:

(a) willfully and knowingly refuses to provide information required by this chapter or regulations adopted hereunder; or

(b) wilfully and knowingly neglects to comply with or intentionally violates any of the provisions of this section or refuses to perform any of the duties imposed upon him by this section.

Sen. BROWN: Roman numeral 1 adds the words a direct and tangible interest. It has to be someone, if they get the information, has to have a direct and tangible reason not someone down the street through hearsay. The other amendment in the original bill, for the purpose of a misdemeanor, they thought it was too strict so what was section b before is now a misdemeanor and what was a and c then, is now a violation.

Amendment adopted. Ordered to third reading.

Sen. Smith moved that HB 850 be taken from the table. Adopted.

HB 850, requiring each school district treasurer to pay out monies belonging to the district upon orders of the duly empowered representatives of the school board.

Sen. Smith offered an amendment to HB 850.

#### Amendment to HB 850

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

relative to the payment of school district moneys on orders of the duly authorized representative of the school board and relative to the payment of tuition charges in lieu of taxes.



Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Tuition for Certain Students. Amend RSA 194 by inserting after section 3-a the following new section:

194:3-b Tuition for Certain Students. Owners of property exempt from taxation under RSA 72:23, IV and V, on which reside one or more children who are pupils of public schools within the district in which the property is located, shall pay to the district, in lieu of taxes, tuition equal to the actual cost of attendance for each such pupil.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. SMITH: What the bill allows is, within a school district where there are more than three members, the school board may form a committee within the school board for the purpose of signing checks so that you don't have to have nine people signing a check, you can limit it to three members of the school board plus the treasurer. That is the bill. The amendment to the bill which is offered by Senator Sanborn, would allow schools to collect a tuition payment where there are families living in a house on nontaxable property such as some charitable organization that may have a groundskeeper with six kids going to the local school and not pay any taxes. This would allow the school district to collect tuition for actual costs in such instances. I hope the Senate will approve the amendment.

Amendment adopted.

Sen. Monier offered a further amendment to HB 850.

Sen. MONIER: The intent of this amendment is a simple intent. It is one which we have discussed before and sent to interim study under a different kind of a bill but a bill that completely did several different things. If you will note that the title change is self-explanatory and abolishing supervisory unions and all duties and employees thereof. The truth of the matter is, that we have supposedly been looking or should have been looking since January and February for means by which to cut our budget and to cut our governmental costs at all levels. Senator Jacobson opened this door with his bill which was the elimination of public education as

such and bringing it to the state level. Further research done on this by a group of us shows that the state costs of operating supervisory unions is close to \$400,000, the last figure we were able to get shows \$341,600, but the surprising aspect of the whole thing is what it costs the towns and municipalities. Somewhere between \$4½ million and \$5½ million dollars. We had a headlines in all the papers, for example, when we attempted at one time to consider stopping the return of the annual increase of the business profits tax to deny the towns of about \$3 million dollars of expected revenues not a cutback I might add. Here is an opportunity for all of us to provide those towns and municipalities with \$4½ to \$5½ million dollars back to them. In short to relieve them of the burden of the supervisory union costs. That is the fiscal picture. Let us take a quick look at why we should do this. The answer to that is relatively simple and I refuse to deal with it in anything except simple terms. The bureaucratic level of supervisory unions is nothing more than an administrative process. It does not contribute one single sense worth of effort to the better education of the graduating students from public educational systems. If for example, tomorrow morning they cease to exist, our students would be no smarter, no dumber, no more intelligent nor more enlightened in any way whatsoever. It might mean however that we would have some fundings that would not be administrative and could perhaps provide in some way or another for some additional educational achievement on the part of our students. I think we are well aware that today public schools are turning out less educated people and costing us more and more money. This is one level and one layer of bureaucracy that is not necessary and not needed. And before you ask, there are three things on the last page that you should know, there are some properties that are involved with supervisory unions and it is covered here under section 10, equitably proportioned and distributed to local school districts in the supervisory unions under the direction of the state department of education. Two, before anyone raises the question, federal programs are not supervisory unions, I'll put it the other way around, are not required in order they enjoy federal education programs already on the books and any such program or grant that is currently administered by or through a supervisory union on the effective date of this act, shall continue to enforce under the administration of the

State Department of Education. And last, the transfer of any power that had been inherent within the school boards or school districts granted to the superintendent of the supervisory, are hereby granted the school board and the school district who may in turn assign those powers of principals and school district officials. Once again, I repeat, the basic thrust of this is to reduce the cost of public education for towns and municipalities between \$4½ to \$5½ million dollars. It is secondly to reduce the state costs of approximately \$350,000 to \$400,000 and last but not least, it is to provide the towns and municipalities with better control over the schools themselves. This is the thrust, this is what it aims at, this is the research that has been done on it and I'm willing to stand by it. Thank you Mr. President.

Sen. SMITH: Mr. President, I rise in opposition to the amendment. Whether this amendment is adopted or not, I would intend to bring this before the special committee that was set up under SB 297. Here we are in the wee hours of the session, we come in with an amendment for a very simple bill with 13 sections to it which abolishes supervisory unions and does not really, as I can see, set up anything from an administrative point of view to take its place. I think this is a great grandstand and a wonderful place to express your views. But this kind of legislation is just unreal as far as I am concerned at this time. I haven't even had a chance to look at it, it has never been in committee and for many, many reasons, I would hope that the Senate would vote it down. If it is adopted, then I hope that the amendment, but not the bill, be referred to interim study along with SB 297.

Sen. MONIER: Senator I have no qualms with what you are saying except for one thing, that is not a grandstand play. Do you think for \$4½ million dollars for the towns, and a ¼ of a million for the State, is a grandstand play?

Sen. SMITH: I don't think that is a grandstand play but I do think at this time to bring this kind of a thing in which would if adopted create chaos for the whole educational system of the state is ridiculous.

Sen. MONIER: In what way do you feel Senator Smith that it would create chaos?

Sen. SMITH: Because what it does is repeal the whole administrative structure within Education, certainly within the state educational system without having a replacement of

any kind except for a vast number of school districts direct as I see it going directly to the State Department of Education.

Sen. JACOBSON: Can you indicate to me Sen. Smith what it is that the supervisor unions contribute directly to the students enlightenment or educational beliefs, or educational progress?

Sen. SMITH: Senator, I don't think that question is even worth answering.

Sen. JACOBSON: Mr. President I arise in support of the amendment, with respect to Sen. Smiths concern for administration, we do have principals in every school, and they have administrative responsables. During all the work on HB 469, the drinking bill, the principles were involved in a very very active lobbying effort. A number of them were up here at the state house, and spent a considerable amount of time, in fact I was amazed at the amount of time that principals spent in lobbying HB 469, and if they have that amount of time to come up and lobby, certainly we could turn that amount of time, back on for positive administrative work. I think we ought to bear in mind that the supervisory union is a bureaucracy, its a archaic institution, it does not have any real significance at this time and while I know that it protects many jobs within the department of education, there has been no documented evidence with respect to its positive contributions to fundamental basic education. I do not know of a single instance that my children have received any positive benefits that they could not receive without the supervisory unions. And therefore I think we can make a very progressive, a very liberal move. Actually though its a very long bill its actualy a very simple proposition, and the educational processes in my view would go on better. I'm not so much concerned with saving the six million dollars, I'd rather put the six million dollars into those things that will directly benefit students. Because I don't believe we need to have this kind of a over-arching super structure in terms of the educational processes, we have a lot of able principals that demonstrated it by their lobbying efforts on HB 469, and know we can turn them to this very positive effort in terms administering each school, high school and elementary school.

Sen. BLAISDELL: Sen. Jacobson, you say that there hasn't been any documented evidence as to the value of supervisory unions, or something to that effect?



Sen. JACOBSON: Yes.

Sen. BLAISDELL: How would you know whether there has been any or not since we have not had a hearing on this particular measure?

Sen. JACOBSON: Well senator, I don't need to have a hearing on it because I can see it in my own area.

Sen. BLAISDELL: Senator, I was very interested in your comments, and I rather sympathetic with your view to the fact that we passed SB 269 which sets up a system where by we will have a unionfied school system within the state, and abolish all the supervisory unions, and this study committee is to go into effect and try to do this in an orderly manner. Now, do you think Senator, and what I was interested in, primiraly was your comment about the principals being up here. This bill is not in any way in retaliation against the principals for coming up here, is it?

Sen. JACOBSON: Oh no, I don't want to retaliate, I want to give them more positive functions.

Sen. BLAISDELL: Mr. President, I rise in opposition to this amendment, I'm just reading it here, but in answer to Sen. Jacobson. I think that my supervisery union in my area has done an excellent job, especially with the handicapped and retarded and other children. If your area is not, isn't doing the job I think you should look to other areas and probably get some better help, but my area, I object to this for my own area. We've done an excellent job in the Supervisory Union 29. I can't say it strong enough, I think that this is just terrible, one of the worst things I've ever seen.

Sen. JACOBSON: How is it that your superintendent wrote a letter in favor of this then?

Sen. BLAISDELL: I'm not talking about the superintendent of the schools, it's just one mans opinion Sen. Jacobson, as it is yours. You say it doesn't work, I say it does.

Sen. JACOBSON: Could you document for me, what functions the supervisory union has done with the handicapped children that they could not do under the administration of principals?

Sen. BLAISDELL: Well I think it's got so complex, especially, I know it has in my area, anyway, Sen. Jacobson, it would be too much for one man to do. Out principles in our schools can't even take care, as you say bringing beer into the schools. I think people have said that right along, and I think we're just putting too much onto them, and there's just

no way that they could take care of the deaf program in our area, the handicapped children, you've got the retarded you've got a lot of things. I would certainly object to.

Sen. JACOBSON: Would you believe me that my wife has been involved in the handicapped children in regards to the Kearsarge Regional School District?

Sen. BLAISDELL: Yes I would because I know your wife and she's an excellent woman and would be that dedicated. Yes I would believe you sir.

Sen. JACOBSON: And has been able to function, as far as I know without the supervisory union, she does not do it now, but she has done it, and the head of the program is within the school district under the direction of the principal at the present time. Would you believe that?

Sen. BLAISDELL: Yes I would believe you Senator because you haven't told me a lie yet.

Sen. BROWN: Mr. President, I arise in support of the amendment. One of the main reasons I put on this bill, is one of the subjects that Senator Jacobson brought up in relation to bureaucracy. In Supervisory Union 55, as an example, nine years ago they had a superintendent, and one lady in the office, the superintendent then received \$15,800, and she was known not only as business administrator and received \$8,000, nine years later 1976, it was the superintendent at \$27,000, assistant superintendent at \$21,300, and business administrator at \$16,300 at five staff, know that was 1976 figures. Last year they got another raise, I haven't got those figures, but they got a substantial raise, and the percentage of students has not grown in proportion to the bureaucracy disputed in these supervisory unions, whether it goes to a study committee, or whether it's passed, I think its a very severe subject.

Sen. SMITH: Senator sometimes we talk when we get into this time of the session about the silly sessions, silly season. Would you think this was amendment for the silly season?

Sen. BROWN: Perhaps senator, we are so late and so confused and so forth, you may have a point, but I'm very sincere and very dedicated to prevent this sort of thing from going on senator.

Sen. MONIER: As I've indicated I'm not very sympathetic with our present structure, or supervisory unions. You are familiar with the fact that we do have a bill, the intent of which is

to set up a unified school system., thats been sent to study. Don't you think that with the fact that we have a capital budget, an operating budget and some at least forty other bills to deal with, plus which we have a secretarial staff which is strained pretty much to the limit as to the amount of work it can get out, that it would be best that this amendment be defeated, so that we can get on to other areas, and this whole concept can be studied by that committee?

Sen. : You have a point, but having served four terms up here I kind of hesitate sometimes as to whether these things should be done or not.

Sen. BROWN: Senator, do you know who the committee is composed of. Are you familiar that the chairman of Senate Education, the chairman of House Education, three other members appointed by the President of the Senate, three by the Speaker of the House, the Commissioner of Education, plus some representative of the School Board Association, a representative of the New Hampshire Education Association are on that committee?

Sen. SMITH: Yes I realize they are on there.

Sen. Senator, I am also well aware of the time element we're saying and I'm not trying to argue with you, but I'd like to ask you something. You just elicited a whole series of people who are going to be on this committee that you speak of so highly, and I think its correct, I voted to put that whole study of all the education systems, the total thing in the state of New Hampshire into an interum study. Now let me ask you a question, wouldn't you agree that all but a couple of those have a vested interest in particular aspects of the educational system, to see that they maintain the same level of spending, with the same level of idiocy we're putting out?

Sen. SMITH: Senator, your question was a statement really, but I'll try to answer it. I have no direct involvement in education except that I have three kids in the public school system of this state. I don't teach, I don't administer, I don't even philosophize very much on education, and I think that this amendment which you're playing games with, very much so this moning, is a waste of time for the Senate, on a day when we have some very important legislation coming in.

Sen. JACOBSON: Senator were you aware that this amendment was going to come in on HB 850, some days ago?

Sen. SMITH: I heard rumors about it last week. As I was told at the time, how did you find out about it? It wasn't

exactly presented to me and I'd never seen a copy of it until it was laid here in front of me this morning.

Sen. Lamontagne moved the previous question.

Adopted.

Sen. Bradley requested a roll call. Seconded by Sen. Blaisdell.

The following Senators voted yea: Rock, Lamontagne, Poulsen, Gardner, Bergeron, Monier, McLaughlin, Healy, Sanborn, Provost, Brown, Jacobson.

The following Senators voted nay: Smith, Bradley, Saggiotes, Blaisdell, Trowbridge, Keeney, Hancock, Bossie, Fennelly, Downing, Preston, Foley.

12 yeas 12 nays

Amendment failed. Ordered to third reading.

Sen. Lamontagne moved that HB 457 be taken from the table.

Adopted.

HB 457, redefining the term "motor truck" in the motor vehicle laws.

Question of the committee amendment.

#### Amendment to HB 457

Amend RSA 259:1, XVI as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

XVI. "Motor truck", any motor vehicle of greater than 12,000 pounds gross carrying weight intended, designed, or constructed for the transportation of freight or merchandise, or any other motor vehicle equipped with other than pneumatic tires.

Sen. LAMONTAGNE: Mr. President and members of the Senate, under the present law the term motor truck is defined



in part of any motor vehicle is greater than one and a half ton capacity. The only thing the amendment does is, it changes the vehicle of greater than 18,000 pounds to 12,000 pounds, that's all the amendment does. Senator Preston had asked for some information about the 20%, and it was felt that it was the 20% tolerance, which was not so. The 20% is in the law at the present time, and that is only 20% of overload. But what this bill does is, it only adds operator or cause to be operator. For instance, an operator who is operating an overweight truck who sometimes has been picked up and all the time it was the owner who had given instructions, so now what it does is that either the operator or the person who caused to operate will be arrested for the overweight. And again I repeat that 20% has nothing to do with the tolerance as the question was asked.

Sen. BRADLEY: I understand Senator, 20% is already in the law, that your bill is not affecting that, but does that mean that there is a 20% tolerance on the fat trucks. So we didn't really pass a bill allowing 80,000 pounds, and we passed one allowing 96,000?

Sen. LAMONTAGNE: We're not talking about no tolerance at all, this is if you take a truck and it goes on the scales and is weighed and it's about 20%, is what they use as a guide line to arrest. So now, before, it used to be the operator who used to be arrested.

Sen. BRADLEY: I understand what the bill does senator, but what I want to know is what this 20% does.

Sen. LAMONTAGNE: the 20% is only there for, if you get onto a scale and your 20% over, then you're fined.

Sen. BRADLEY: Further question. We just increased the maximum limit, to 80,000, was it. Now if I've got a truck that's loaded to 95,000, which is less than 20% more than 80,000, I think, and I get hauled into the weighing station and it weighs up to 95,000, my truck is rated for 82,000. Am I violating the law?

Sen. LAMONTAGNE: Yes, you are violating the law because there is another section in the law which only allows you 5% tolerance.

Sen. BRADLEY: Five percent over the eighty?

Sen. LAMONTAGNE: That's right.

Sen. LAMONTAGNE: Senator were you asking about the 80,000 pounds?

Sen. BRADLEY: Right.

Sen. LAMONTAGNE: The 80,000 pounds five axals there is no tolerance, but the trucks under the 80,000 pounds, there is a 5% tolerance.

Amendment adopted. Ordered to third reading.

Sen. Lamontagne moved that HB 764 be taken from the table.

Adopted.

HB 764, expanding the penalty provision relative to an overloaded vehicle.

Question of committee amendment.

#### Amendment to HB 764

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

amending the penalty for operating a motor vehicle in violation of size, height or weight restrictions.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Penalty Amended. Amend RSA 263:69 (supp) as amended by striking out in lines 5 and 6 the words "if a natural person or guilty of a felony if any other person" so that said section as amended shall read as follows:

263:69 Penalty for Exceeding Permitted Size or Weight. Any person who shall operate or cause to be operated on the highways of this state a vehicle whose height, size or weight is in excess of that herein prescribed shall be guilty of a misdemeanor for the first offense, and for any subsequent offense, shall be guilty of a misdemeanor.

3 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to third reading.

### COMMITTEE REPORTS

HB 356, to reclassify certain sections of highways in the town of Merrimack; to provide town authorization to appropriate town funds for their improvement, and for the construction of a new interchange and collector roadways on the central New Hampshire turnpike in the town of Merrimack and the relocation of the toll plaza and making an appropriation therefor. Ought to pass. Sen. Gardner for the committee.

Sen. GARDNER: HB 356 provides for the reclassification of approximately three and ninety-five hundreds of a mile of Camp Sargent Road from a class 5 town road to class 2 state secondary road. The town of Merrimack has no state secondary mileage at the present time. If the town appropriates one million one hundred thousand dollars to match the one million one hundred thousand dollars of state funds including in the bill, then a joint fund construction project will be undertaken by the department to rebuild this highway as a limited excess highway in new locations. The existing Merrimack interchange has peaked our problems at the present time, and with the event of the new Digital facility scheduled to open this fall, the department can forecast morning and evening traffic volumes, afternoon I should say, which will result in over capacity situations at both times of day. To expand the present interchange would require substantial land taking involving a substantial numbers of homes and business including the historic Matthew Thornton House. Construction at this location would complicate the forecast traffic problems over a period of over three years. The proposed new interchange is to be constructed on approximately 130 acres of land presently owned by Digital, which will be donated to the state at no cost. Now this is the plant that is being constructed at the present time and the land that will be given to the state will have 130 acres when the interchange is done, it will be donated to the state. Now their planning if this bill passes on building another plant, this will be plant number 2, each plant will provide for about 2,000 employees. This is a ten lane highway, this is the, let me get my map, there are three bridges, I have to find my direction, because I

did my business on the little one. This is the Everett Turnpike, and the road that they are going to rebuild, this is the plaza there are three bridges, this is the big overhead bridge, here, and big overhead bridge here, there will also be three smaller bridges. I don't know where the other one is, here I guess. There will be ten lanes in the lamp plaza and two of these lanes will be open. One will be open at peak travels, one will be open in the morning and another will be open at night, Purpose for the travel that will be generated by 27 hundred cars which they predict. Now here is the toll lane here, this is the one that is twenty cents, and if they buy tokens it will only cost them a dime to come on and off this lane right here. Now this is a twelve lane road right here, this is your toll gate right here. Now this is that road Camp Sargent Road that comes down here, that will be built that connects with route 3. Now there were quite a few at the hearing, in fact it was a big hearing, and as near as I can remember, these people did attend, Commissioner Claremonts, Associate Conventional Flanders, the sponsors of the bill, several House members. Attorney Stahle who represents Digital Attorney Rudman who represents Coleman, James J. White from Merrimack. Senator Bossie represented White from Manchester. Now there was opposition to this bill, the opposition came from the vice-president Paul Nedeau of the Nashua Regional Transportation Planning Committee, also the Senator from Hudson opposed the bill and I believe two representatives from Hudson. Now I'll tell you why Mr. Nedeau opposed the bill. He had written to the, and he gave me to understand and maybe I interrupted it wrong as well as the rest of the committee that the information that he had requested from the department of public highways was not answered, he sent a letter to Commissioner Claremonts on April 20th, and he requested information on three things, the National Regional Planning Commission formerly requesting the New Hampshire Department of Public Works and Highways to use the Nashua area transportation study computer models for an analyst for three alternate Merrimack river crossings as discribed below. 1) An New Hampshire interchange at the Digital Industrial site in Merrimack, a new facilities turnpike toll collecting facultys at the interchange, a new bridge over the Merrimack river connecting the Henry Burke highway to the northeast portion of the Hudson, second ferentale highway, the second question was, a new turnpike



interchange at the Digital Industrial site in Merrimack with turnpike toll collecting facilities at the interchange, a connection between this new interchange and a new bridge over the Merrimack river in the vicinity of the new interchange, relocation of the northeast portion of the Hudson second ferential highway connect to this new bridge. The third question, he wished studied, a new turnpike interchange at the Digital Industrial site in Merrimack, without turnpike toll collecting facilities at the interchange. A connection between this new bridge and the Merrimack river in the vicinity of the new interchange. Relocation of the northeast portion of the Hudson circum ferential highway connect to this bridge. The commission request that the complete results of this this analyst be available for use in the transportation planning process in the Nashua area. Now, the question of April 22, was answered on May 6th, then there was a letter written to the engineer by George B. Harris by a Mr. Gosselin, who I believe is the executive director of the Nashua Highway Transportation Planning Authority. Now these were answered by the department, and I have the letters that were written to the commission and if anyone wants to see them they may, but were answered. The main toll system will have a minimum of twelve lanes which is fifty percent more the existing toll station, and heres the toll station right here. The new interchange consists of two major bridges which are these over the Everett Turnpike, and three other bridges on the excess ramps. The new interchange includes approximately 1 1/3 more miles of four lane highway for the connecting road for Camp Sargent Road and new U.S. 3, right here. Now the New Hampshire total single lane mileage within the project is 9 8/10 miles which is equivalent to two lane roads from Meridith to Sunny Harbor. The New Hampshire station on the blue star portion of the eastern New Hampshire turnpike, 595, was opened to traffic in Feb. of 1977, at a total cost of approximately \$10 million. The toll station did not have the large ramp faculty proposed at Merrimack. Now there was a question on why the \$12,000 stated to build the road in the beginning, \$12 million is \$16 million now. The \$12 million allotted to is the first estimate however, it was before the engineering study had been done, so after it had been done it was proven by taking the studies of the traffic and everything else, that the new interchange would cost \$16 million dollars. The bill provides for that, it has been amended,

and it provides for the changes both in the bonded issue and in the cost of the interchange. The one million one hundred thousand dollars to be raised by Merrimack is also provided for in the bill as well as the fund to be raised by the, to be contributed by the state. Now, to me, we must make a decision do we want to encourage industries to come to New Hampshire and generate new jobs, certainly there will be many dollars left here. The special company we hear talked about so much. Digital, has nearly completed one plant, and is planning if this is passed to build another. They have donated 130 acres, well I don't know how much industrial land is worth, but I assume it is quite a sizable sum. Industries certainly contribute to the economy of our state, besides providing jobs for our citizens. No company is going to locate where there is no access road and if roads can not be built we will have no new industrial plants. There are other industries built in this area and the new interchange will help the pile up of traffic in that area. Now, I repeat, Senators, the discussion is up to you, by your vote you will determine whether the interchange will be built, or whether this bill is defeated or passed.

Sen. ROCK: How many of the employees that are going to work there are New Hampshire people?

Sen. GARDNER: I don't know.

Sen. ROCK: If that's a question, my answer is that I was led to believe that there may be a preponderance of non New Hampshire people, but I understand what your saying, Senator. I'm going to vote for your bill.

Sen. GARDNER: About seventy-five percent, I think I heard mentioned, but that's not authentic, for out-of-state employees.

Sen. MCLAUGHLIN: On the Everett Turnpike going off to Manchester, if the commissioner thinks that the raise of about ten cents, will tokens be still allowed and cost only half as much, do you believe?

Sen. GARDNER: It's twenty cents, for access roads, but if

tokens are allowed, they'll be ten cents, half of what they pay now.

Sen. MCLAUGHLIN: Now we are going from Nashua to Manchester on the Everett Turnpike, again cutting off to what we were talking about here, you just said they were going to raise that possibly ten cents. Now, if this is raised to twenty cents at that point, will the tokens that are still in effect only be raised a nickel, five cents. Do you believe?

Sen. GARDNER: No, I think it will be ten cents, but it will be half of what the toll is now, that your allowed, your allowed twenty. All right, then I would assume that if it went up to fifty, I'm not sure I didn't ask, that it would be twenty-five.

Sen. MCLAUGHLIN: That's the problem we have, the problem we have in the southern part of the state.

Sen. GARDNER: But if you don't buy the tokens it will be the regular toll price, and loads of people do that now. It has been brought out in the study that more people, if I could find it I could tell you, there are more people now that knew that don't bother with the tokens. Loads of people don't bother they just go right straight through and pay the regular toll.

Sen. MCLAUGHLIN; I agree that some folks don't do it. Their main concern is the people who daily commute from Nashua to Manchester, Manchester to Concord, or Nashua to Bow, and so forth and so on, this is a unfair charge for them to bare upon them for this interchange, especially with a cost of \$16 million dollars, it is hoped that in some way the cost could have been cut down to considerably less then that final figures estimated at \$16 million, our problem is that we have to pay from Nashua, going north all the time, we want to pay less that's too much. That's our main concern.

Sen. FENNELLY: I don't have a question per se, but I

would like to answer some of the questions that Senator McLaughlin has asked. I think that perhaps I can qualify it a little. Senator are you questioning the increase of the toll gate, the present toll gate, from forty to fifty cents, or possibly even more. Now number one, it has been brought out that there would possibly be, an increase would be necessary, possibly ten cents, but this has to be done by the Governor and Council, if there is an increase, number one. Number two, when she talks about the toll of ten cents, actually the toll going into these, within the new terminal would be twenty cents, but if people were working there or if they could buy tokens regardless whether they work there or not, then it would only cost ten cents, and that seems reasonable. Now coming from Nashua, from Manchester or anywhere, going south or north on the turnpike they could enter route 3 in that particular area by taking these overhead bridges, and so forth, and going into this new terminal for only ten cents where otherwise if they were proceeding directly into the toll gate as it is now, they would have to pay the forty present cents that's charged and then enter. If this new interchange is constructed, it would cost only ten cents, by the use of a token, even if your coming from Portsmouth or anywhere else, or from any direction other than paying the forty cents from the Hooksett toll. If your coming from any direction, and went onto the turnpike, proceeded south, or proceeded north, it would only cost ten cents, with the use of a token. going onto this interchange, so to me that is very important.

Sen. : What is my question?

Sen. FENNELLY: Your question, you asked a question before, didn't you about the toll charge, you were concerned with the the toll charge, where you not? Well I was just trying to qualify the fact that, number one, that there is no increase has been set up yet, and what ever the increase would be, that would have to be done by the Governor and Council.

Sen. In respond to this, can we get a guarantee or insurance from the highway department, that's all the increase will be in the next five to ten years, in the tolls.

Sen. FENNELLY: What guarantee that would make five to ten years, I do not know but they did say, they did mention it would be about ten percent, they think, at the main toll gate on the Everett Turnpike, it would be about ten percent, I mean it would be about ten cents. Now, five years hence, I



don't know, this is inflationary periods, anything could happen in ten years or five years.

Sen. If we put a bond in for \$16million dollars, or whatever we are going to have to do on this thing hear, if we do this thing here, there will be a fixed charge per year in the future for paying it off. We'll have to pay so much per year for X amount of years here after, so that figure should established momentarily, or the next few months as to what its going to cost us to borrow the \$16 million dollars to do that. And on that basis, we should be able to establish a figure very soon for what the increase would have to be to compensate for income from that area going through. And the main concern we have is that we don't want a thirty or forty cent increase in our tolls, thats our main concern.

Sen. FENNELLY: Now, we've listened to Senator Gardner and her charts, and soforth, but what it really comes down to, is this is Digital Corporation bill. Lets fac it and lets be honest. Its going to cost \$16 million dollars, and the people in Nashua and Merrimack better hold onto their pocketbooks on those tolls, number one. Number two, when I see high powered lobbieists like Mr. Milenet and Company lobbying Digital to get this bill passed, then you know who its for. Digital Corporation says we are going to give 130 acres of land, well I'd give 130 acres of land myself, to have a \$16 million dollar road built, if I owned a major corporation. And then they tell the people that if this is passed that they will bring new industries, we are going to build new plants and soforth, but more than that it comes back to the basic concept of what Senator Rock has said, time and time again on the increase of tolls, I've projected that unless we have controll over that legislation in the future, Hampton will be at a dollar and the Everett Turnpike will be at seventy-five cents. But more then that, that any corporation such as Digital or anything else, any other corporation that has that much power to force a bill through, and get to this Senate floor with the recommendation, ought to pass, there is something wrong, so I urge this full Senate to support my motion of indefinite postponement.

Sen. JACOBSON: Senator have you had the distict impression that the lobbieists and the bureaucrats have been the big winners in this session?

Sen. FENNELLY: Constantly they were the big winners last Friday on HB 314, the malpractice. But this a bill we have to

reject on its merits, when we're talking \$16 million dollars and when you bond that, you're talking forty million dollars and when they say 16 their talking an override cost of four, so you're talking \$20 million dollars over thirty year period, so you're really talking \$45 million. Yes they have won, and I hope in this bill we can defeat them.

Sen. JACOBSON: Do you think we should look to the future to try to see that we go to total public interest, rather than the interest of the lobbyists and the bureaucrats?

Sen. FENNELLY: I could not agree with you more Senator Jacobson, when I once said the sacred cow is the highway department, I meant it. Now they have more support from the highway department and a major corporation, to spend the tax payers money in this State, especially in the Nashua and Merrimack area. Senator McLaughlin brought up a good point of what its going to cost them. Unless the other bill which pertains to the tolls get passed, they are really going to whopped down there.

Sen. JACOBSON: I understand the National Telgram had an interesting editorial in there and it related to Neanderthal, is a Neanderthal in any ways related to support of lobbyists and bureaucrats?

Sen. FENNELLY: I haven't read the article but I probably would presume you are right.

Sen. HEALY: Senator Fennelly, would you believe that Route 3 from Manchester right into Nashua is becoming an industrial highway?

Sen. FENNELLY: I believe it.

Sen. HEALY: Would you believe also that there have been a number of industries built in Merrimack going right down into Nashua and even in Bedford of great importance to the economy of the State of New Hampshire?

Sen. FENNELLY: I believe this Senator Healy, that this nation is coming from a high energy consuming nation to a middle and low. And the days of building super highways costing \$16 million dollars of our money, going nowhere, must stop and we have the opportunity on this bill to stop it under my motion.

Sen. HEALY: Do you realize that if we don't do something about this section, that interchange, that there is going to be an overloaded situation of traffic coming and going and it is going to be costly for the employees who work down there and that there is going to be an overabundance of traf-

fic on route 3 going north and south, getting off of the main-line if we don't do something about it? And it would also be a handicap for the state of New Hampshire if we don't take into consideration the progress of the state where new industry wants to move in and that is becoming an industrial and business complex, from Manchester to Nashua?

Sen. FENNELLY: Now I agree with new industry. But new industry should pay their own way. For us to subsidize, do you think that industry to a great degree, would just give away a 138 acres of prime land unless they were going to get something for it and they are going to get 60-\$20 million dollars of our money at probably \$50 million over a 30 year bonding indebtedness on this bill?

Sen. HEALY: You are making reference I presume to Digital. Do you realize that there are a number of other industries in that area including the Budweiser brewery and so forth, that are going to benefit by this interchange?

Sen. FENNELLY: I could care less about Budweiser enterprises—I think they can take care of themselves. They have enough money to build 50 spare roads if they want to.

Sen. HEALY: The question is this, it is not Budweiser, it is not Digital, it is not any of the other industries, it is the working people who have to go to these business firms to perform their day's work and get the benefits of the new industries. You don't think that we should handicap progress, do you?

Sen. FENNELLY: I believe in the free enterprise system. I don't think that we should subsidize private industry. The question that you asked me before, I have never heard of a corporation willing to give 130 acres away to the state. For anything. But they will give it away on this one.

Sen. HEALY: And your response to that—I don't know of any 130 acres given away by any new industry but I know of many new industries coming in have given assistance to the city of Manchester and have donated areas and have donated funds to help out and to establishing new industries in Manchester.

Sen. FENNELLY: I agree with you but Senator Rock was trying to bring up a point, how many people employed at Digital Corporation or any corporation are residents of the state of Massachusetts? Which only 25, 30 miles away?

Sen. HEALY: If they build this interchange do you realize the admission through these gates would add employment for

the state for these people who would be attending these particular gates at the interchange and the interchange fee would be 20c going over into these firms, going over onto Route 3 or whatever factory you want to go to, there are many industries over there but do you realize by having this interchange and passing through these toll gates, these people who work there or anybody who wants to, they can buy this 20c admission to the gate for only 10c, half of the fare. So it costs 20c a day. Also do you realize that people coming from even Dover, Rochester or anywhere else coming onto Route 101 and going onto the Everett Turnpike south, that if they worked at Digital for example, that they would only be paying 10c if they bought the toll ticket?

Sen. FENNELLY: I do not want my people in the seacoast area where they can divert funds now from the toll to build the highway, to pay for something in the other part of the state and that is what is going to happen. What we are doing here, as sure as you are standing there, \$16 million dollars, I know of little corporations who don't have the clout of Joseph B. Millinet and company, the high priced lawyers, lobbyists, to support them—would love an interchange in some of the industrial areas in the seacoast. But they don't have the clout and don't have the money to hire them.

Sen. HEALY: You localize the fact that all the money, not all the money, but that the seacoast people will be paying right?

Sen. FENNELLY: No I didn't say that. They have the authority now.

Sen. HEALY: Doesn't the seacoast have a special turnpike of its own, route 95?

Sen. FENNELLY: Right. At that time it was 90% federally funded and 10% state. The state now has to absorb all this cost. When you are talking 16 million dollars and floating bonds for 30 years, you're talking 50 million dollars.

Sen. HEALY: Don't you think too, possibly, that federal funds may come into the picture about this situation? Sooner or later there is a log jam of traffic at that particular toll station—sooner or later something has to develop. If there is a backup of traffic from Nashua, from Manchester or whatever going south.



Sen. FENNELLY: I can't speak for the United States Highway Department Senator, I wish there were federal funds but there isn't. We have to pay every dime of that back. And once we float this bond we are going to pay for it.

Sen. HEALY: You are speaking about lobbyists all the time, ever since I have been in this Senate and it has only been a short while, this is my first term, I have never seen so many lobbyists. They are lobbying on even minor bills of no consequence as far as I am concerned, so everybody seems to be a lobbyist, even members of this Senate are lobbyists. I tried to come in here without being a lobbyist and have no special interest. My goal was to come in and work for my people, not to be a lobbyist for any particular firm or anyone else. I do not have any conflict of interest. So I come in here and stand alone and say that the people and the traffic situation down there is going to be abominable if people going to work down there they are going to start out an hour earlier because of the problem of traveling problems. I say something sooner or later is going to have to be done in that particular area. As I said before Route 3 is an industrial route, right into Massachusetts. And even the Senators from Nashua and Hudson are acclimated with that. They understand that. We understand that, in fact it is coming from Hooksett not only Manchester. That is an industrial highway. There is nothing we can do to stop it, we don't want to stop it if it is going to be beneficial to the state of New Hampshire. I strongly endorse this measure and I think it is very important that this thing goes through and I am not a spender. If there is anything about this business, I am against taxes, 100% against taxes. You'll find that out when the tax bill comes through. I am going to oppose them but I can't oppose something that is practical.

Sen. FENNELLY: In reply to your question Senator, it is just a matter of numbers. Now they are going to build that road with 20c tolls. Now to offset the 16 million dollars with a 20c toll, it just can't hack it. What is going to happen is an increase on the Everett Turnpike at the Nashua and Manchester tolls to 50c. Then they can hack it. So even though the people who are not working in Digital, will be paying for that extra money.

Sen. HEALY: Prior to this particular bill that is on the floor was the total raised in the state of New Hampshire at Reeds Ferry and in Hooksett, were they raised?

Sen. FENNELLY: Twenty-five to 40c. The bonds to support the highway system. That's what was raised and it shouldn't have been raised.

Sen. HEALY: You're saying it shouldn't have been raised but that is a matter of your personal opinion on that. They were raised and we here in the Senate had nothing to do with it. Number two, do you think if this bill is passed, that the tolls might go up again?

Sen. FENNELLY: Well, Senator Rock's bill SB 80 gets passed, in the House on a committee of conference, then the legislature will have to say when and where the tolls will go up. And that is why I sponsored the bill.

Sen. HEALY: Has that bill passed.?

Sen. FENNELLY: Yes it passed the House as amended.

Sen. HEALY: Has it passed the Senate?

Sen. FENNELLY: Yes it has passed the Senate. Two months ago.

Sen. HEALY: In other words it is going to be effective?

Sen. FENNELLY: We hope so.

Sen. KEENEY: I rise in support of the present motion to indefinitely postpone HB 356. I speak in favor of the motion not only as the Senator from Hudson but also as one of the three from Nashua and probably on behalf of the town of Londonderry although I don't think they are as yet aware of what impact such an interchange and the plans that have been proposed in HB 356 will present. We would in effect at the end of 30 years borrowing 16 million for 6% for the purpose of allowing an industry the convenience of bringing in its 4,000 workers, we would in effect be paying some \$8,600 per worker to have them come to the area. And I emphasize that HB 356 is not a Merrimack bill, it is not a highway bill, it is not just the transportation and ease of access to a few companies in the area. It should be considered as a bill which is going to effect the whole of the Nashua regional area and as a member of the Nashua regional planning commission I also rise in support of the motion to indefinitely postpone this bill. We have spent considerable time and money in the Nashua area and towns, in trying to plan ahead for our highway and our development of the area. we recognize that we are a very fast growing area, we have welcomed Digital to Hudson to Salem, to Nashua, and we welcome Digital to Merrimack but we don't welcome spending \$16 million dollars on an interchange if we can spend less and do the same

job. The Nashua Regional Planning Commission has had in effect its plans and this HB 356 has been entered in a hurry. The State highway department hasn't even put all its computer operations through as the regional planning commission has asked and they don't even have the supporting evidence for the need for such an interchange. I recognize that traffic is growing in the area. It is about 19,000 cars a day going through the Merrimack interchange now but it is 20,000 cars a day that have been going by the Hudson post office on route 3A on the other side of the river for several years and the highway department has not yet fulfilled its obligations of 10 years ago to the town of Hudson and to Litchfield, Merrimack and Nashua to the north with roads and bridges. It is very unlikely that those plans will be fulfilled even in the foreseeable future according to one of the letters which the chairman of the transportation committee has in her possession and a copy of which I also have. The highway interchange, although it is becoming busier, and perhaps I missed the greatest impact at the time of day, but I came through the present tolls at 8:30 this morning, followed one other car through the number 1 gate and there were less than 5 within my sight, forward backward, coming on or off at Merrimack. The Merrimack highway safety panel, claims that since the last toll was raised last month, that 3,000 more cars have gone through the town of Merrimack on their road to avoid the raise in the toll. How many more cars are going to be going through the towns of Merrimack and Bedford, or crossing the river and going northerly through Hudson and Litchfield and Manchester before the Manchester bypass opens to avoid increases of toll. I heartily support the motion to indefinitely postpone HB 356.

Sen. HEALY: Senator Keeney, you mentioned the Nashua regional development organization of which you are a member.

Sen. KEENEY: I am an unpaid commissioner representing the town of Hudson on the Nashua regional planning commission.

Sen. HEALY: Does that commission take in other areas than Nashua and Hudson?

Sen. KEENEY: Yes. It includes Nashua, Hudson, Litchfield, Pelham, Merrimack, Hollis, Amherst.

Sen. HEALY: Does the commission go on record as opposed to this interchange?

Sen. KEENEY: The commission has asked for further study on the interchange and you have the letters available, the requests and the answers were given to the committee. You heard from the newly elected president of the commission, Mr. Nevill at the hearing as opposed to it.

Sen. HEALY: I did hear him. He seemed to concentrate on one thing. Nashua and Hudson. And he is your new president of that commission?

Sen. KEENEY: Yes, he is from Nashua.

Sen. HEALY: Is he considering the towns of Milford and Amherst, Manchester, Bedford and so forth when he comes up with a decision like this?

Sen. KEENEY: Bedford is not included in the regional planning commission but I know that we do consider those towns and the impact is going to be felt by them also.

Sen. HEALY: You mentioned a minute ago about Hudson and the heavy traffic going through Hudson on account of the increase in the toll gates.

Sen. KEENEY: I mentioned specifically Merrimack, we have had heavy traffic going through Hudson for on to 10 years waiting for the state highway department to put into effect changes that were legislated at that time.

Sen. HEALY: Would you be considering yourself opposed to this because you feel possibly that Hudson and Merrimack or these smaller towns in the area, are taking an impact of traffic and you feel that the state is doing nothing about it?

Sen. KEENEY: Completely the opposite sir. I think that the state has already moved ahead pretty swiftly without taking into consideration the regional impact. I think the state has moved ahead specifically because of one industry being encouraged to come into Merrimack at this time and overburdening the total traffic patterns of the area.

Sen. HEALY: On a new factory like Digital coming into New Hampshire, especially in Merrimack but also into Hudson, with further implications that they are going to continue to grow and add to the economy of the state and help out the unemployment situation, do you still feel that that is not a good piece of legislation to meet the progressive movements of the state in the way that it is helping out industry?

Sen. KEENEY: I feel that no legislation is good legislation if it is done on the spur of the moment and I understand that no matter what happens to this bill it is already been included



in the capital budget as by the Senate Capital Budget Committee.

Sen. HEALY: In other words you say this is going to go through whether we like it or not?

Sen. KEENEY: I hope it isn't going to go through whether we like it or not—that is why I am putting my reasons for not liking it on the line this morning.

Sen. HEALY: Would you say that you are pretty much localizing your thinking, you are concentrating on Hudson, Nashua, rather than the general pattern of industry in the state of New Hampshire and our progressive movement towards getting a new industry by promoting the state as we should, do you think that we are moving a little bit too fast? Is that right?

Sen. KEENEY: I only think we are moving too fast on this 16 million dollar interchange which even the mayor of Nashua feels could be done in a different manner and cost much less.

Sen. HEALY: In reference to what the mayor of Nashua said, it could cost much less, I think that every citizen in the state of New Hampshire might have his idea of what should be done, there are a lot of thoughts about this and others have said the same thing. It is too complicated, too expensive but I think we have a public works department and engineers that should be qualified to carry out their mission properly, don't you, or do you not?

Sen. KEENEY: I recall that at the public hearing before your Senate committee, that Deputy Commissioner Flanders both mentioning that professionals had brought forth this plan for the interchange. I also recall that originally when Digital was moving into Merrimack they asked merely for one overpass of the highway so that they could get from one portion of their land to that on the other side of the highway.

Sen. HEALY: Since that happened, do you realize, or do you know, that Digital has planned on a second building to hire 2,000 more people in the State of New Hampshire?

Sen. KEENEY: Sir, I have been aware of Digital's plans for a couple of years as they were brought forth in the meeting of the policy committee of the Nashua regional planning commission by the town manager of the town of Merrimack who attends these meetings.

Sen. HEALY: Do you think if we bypass this and vote this down that it is going to be a happy situation at the toll gate

down at Reeds Ferry for the people who are working in that particular area and who would like the entry into the industrial complex going right down, Budweiser, Digital, and all those other firms, you name them, we have them, and we are going to have more. If we give them ample transportation and traffic veins so that they could carry out a good plan of further development in the area and the bringing in of new industries, do you think that this is really a good move to defeat this measure?

Sen. KEENEY: Looking at the pretzel that is proposed by the professional engineers when all that was asked was a way to go across the highway originally, I cannot see it as a good plan. I cannot also foresee in the future that if we have an interchange and an exit for every company that locates in southern New Hampshire we will no longer have class 1 limited access highways.

Sen. HEALY: Do you realize that this would be stymying our progressive progress in trying to bring new industry into the state of New Hampshire to help our economy and eliminate the unemployment situation that we have? We have an unemployment problem in Manchester and we hope to solve it with Digital and these firms in and around Nashua and all these firms going down Route 3. But you think this is a good idea to stop this?

Sen. KEENEY: You just gave me a new thought about it sir because I have been thinking of the unemployed in Nashua and Nashua has a fairly low unemployment compared with other areas and I have also been thinking of the unemployed in Massachusetts who will be coming up to Digital to work but I hadn't really given that much thought to those from Manchester who would if the toll gate were moved would be able to go from Manchester to Digital with less cost.

Sen HEALY: Sparked by the opinion that there would be people moving in from Massachusetts, do you think that might be a good thing for the state of New Hampshire, bringing other people into New Hampshire to work and to promote our state and make it the state we are hoping it will be?

Sen. KEENEY: It depends if they are really going to pay their way. Because of the present finances if 2,500 cars per day go into Digital in and out, and pay the 20c per day the extra that will be charged, those employees will be contribut-

ing about \$130,000 per year towards this 16 million dollar highway and that is a very small amount.

Sen. HEALY: Your subject has become very iffy, am I right?

Sen. KEENEY: Not at all. That is the proposal that Digital expects, about 2,500 cars per day.

Sen. HEALY: I heard you use the word iffy twice in your last expression. I won't bother you any more. Thank you very much.

Sen. ROCK: Senator Keeney did I hear you say that the mayor of Nashua has a plan that is better than this plan?

Sen. KEENEY: No. You heard me say he expressed the view that a much less complicated arrangement could be made for getting the Digital employees on and off the highway and this was expressed not directly from me to him but in a letter to the Nashua regional planning commission.

Sen. ROCK: Would you give me Mayor Sullivan's qualifications in engineering.

Sen. KEENEY: He has none that I know of in engineering but he has a great capacity for understanding the people of the area as looking at his record of reelection. I believe he is thinking of the needs of the area and of the impact on Nashua.

Sen. ROCK: Senator, as I understand this, this is indeed a spur off the main road to get to someplace else. Now I have a spur off my street and it goes directly from my street to my garage and I call it a driveway and it is 30 feet long and in a straight line and would you believe I wouldn't trust Mayor Sullivan to plan that spur?

Sen. KEENEY: I believe it.

Sen. MONIER: Mr. President, we have been at this a long time and I will be very brief. I rise in opposition to the motion to indefinitely postpone and I support the bill. I have listened to this interestingly, and we come back to three or four basic things and I would just like to take that quickly. One of the things that this interchange planning has done is that it provides off-ramp activities for those cars moving to the industrial areas that are part of the growth of Merrimack and that region. This in itself is a sound transportation planning means by which you do not block thru traffic, north and south, and if you do not have those kinds of off ramp functions and their own tolls you are going to have in the long run great masses of automobiles backed up behind the

only toll gates. This is well recognized. The fact of whether or not we need this interchange in the size and the scope that it is at this particular moment, is really not a question. The question is are we going to need it for the next fifteen or twenty years? And the answer to that has been decided very specifically by those that we have empowered to do this which is the public works and highways department and my feeling is that they are probably right. I don't think there is a soul sitting in this Senate that fifteen years ago would have guessed or had the long-range vision plans to find the kinds of growth and industry and employment and economic functions and activities which have occurred on the belts between Manchester and Nashua. If they had perhaps we would have had a different toll gate then than we have now and there would have been a cost savings. What I am saying is that twenty years from now or fifteen from now, I don't want to see people sitting here and having to revamp that again. This particular one while it is exceedingly large for the particular job at the present time is probably just about the right size for fifteen to twenty years from now. Besides that I don't know any of us that are engineers outside of Andy Poulsen and he isn't inclined to become involved in that particular aspect of it. The second is that if we follow the logic of Senator Fennelly in which the people should be paying for this that are going to be using them, then I would hope that we would start collecting in the north country all of the necessary costs to building 93 to bring in recreation, the ski tourist business, the people for the colorful fall autumn leaf turning etc. and so forth. This is a nice logic to say that but it really isn't very practical and I think we well recognize it. We already as a group are paying for most of these kinds of highways through our highway trust fund. The last point that I would like to make in order to be brief on this because I think we have belabored the point quite some time because this does have to be referred to finance anyhow, is the simple fact that on our relocations there are no questions about it, there will be Massachusetts cars using these off ramps. There will also be New Hampshire cars using it, moving in for employment, home-residence relationship from north to south as well as from south to north. There are large numbers of our people now in the metropolitan area of Manchester and in Nashua who do move to the south and use 93, use the Everett turnpike and use the major highway systems that



we now have in order to be there and back again. I also would ask that we consider the fact that many people do use the Hudson, the 3A Litchfield area and perhaps it is because of the high tolls but also perhaps because of the lack of bridges. This ramp is not going to solve all of that problem but it will provide less congestion which in itself might be conducive to more cars using the Everett turnpike as they should and would be. I just don't feel that we can sit here as Senator Smith so kindly reminded me this morning and deal with the debate of this kind of a nature at this particular time. I strongly urge that the Senate refute and refuse this indefinite postponement and support the bill.

Sen. HANCOCK: Senator Monier are you aware that there isn't any impact statement given by the highway department to the regional planning commission or to any of the communities in the area?

Sen. MONIER: Senator Hancock I am aware that there is a lot of lack in many of the plans that we make throughout our state. I don't feel that that is a major impact in determining this in this particular interchange.

Sen. LAMONTAGNE: Mr. President, members of the senate, I rise in opposition to indefinite postponement and in favor of HB 356. I come from the north country, the isolated area where there is only one way to get into Berlin which is route 16. I favor this project. I think in the transportation committee we had a very good hearing. We had industry that came before our committee and at the same time there was property that had been given to this project. I personally feel that not only the Manchester people are going to benefit by this construction but also the people in the southern part of the state, including Portsmouth, Dover, Rochester, and Nashua will get the benefits. In Berlin we have an industrial building which is empty. It has been empty for three years and at the same time I personally feel that people of Manchester are going to take the recommendation of Commissioner Clements and the Deputy Commissioner Flanders. At this time I would like to bring to the attention of this Senate that we had the planning commission from Nashua who came in and opposed the project. But just keep in mind that that project in Nashua is Federally supported. It is federal funds that is supporting that commission and that is something for you to think about. I am shocked to see that Nashua ployment-wise, will

be getting some benefits out of it. There is no question that there will be Nashua people traveling through these tolls. There is going to be increases in tolls, you have been told that it is going to be increased about ten cents but my gosh look at how much time it is going to save and see that they are not going to gain on that ten cents. I only wish that this was going on up north.

Sen. KEENEY: Senator Lamontagne you mentioned that the regional planning commission was a federally sponsored agency, are you aware that the cities and towns contribute to the cost of the transportation studies which we are mandated to carry out?

Sen. LAMONTAGNE: I am very familiar that that is supported from the public works funds.

Sen. HANCOCK: Mr. President, members of the Senate, I think that we can all acknowledge that this is a major land change. Dispite that no substantial cooperation between the Highway Department, the Regional Planning Commission, the communities affected has been arranged by the Highway Department. I understand probably that they have their orders to come up with plans however there is also an obligation on the part of the highway department in making that suggestion of this magnitude that they come up with some sort of impact statement so that the communities so affected can have an idea of what their obligations are going to be as it relates to roads, to town roads, to schools, to police and fire services, and to the many other charges that can result from a move of this magnitude. This is a tremendous burden I feel to impose without adequate viewing of the obligations which can be imposed on the municipalities areas. I support the motion to indefinitely postpone.

Sen. LAMONTAGNE: Senator would you believe me that in 1959 when the bypass for Concord was covered, that the same argument was being used , would you believe that?

Sen. HANCOCK: Well you were here and I wasn't so I would have to believe you.

Sen. ROCK: Senator Lamontagne, I heard you say that you were surprised that the people from Nashua were against this, would you believe that all the people from Nashua are not against it? That there are some of us who are in favor of it?

Sen. LAMONTAGNE: Well Senator I am very happy to hear that.

Sen. Fennelly moved that HB 356 be indefinitely postponed.

Sen. Fennelly requested a roll call. Seconded by Sen. Blaisdell.

The following Senators voted yea: Keeney, Hancock, Fennelly, Downing, Preston, Foley.

The following Senators voted nay: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Saggiotes, Monier, Blaisdell, Rock, Trowbridge, McLaughlin, Healy, Provost, Brown, Bossie.

6 yeas 16 nays

Motion failed. Referred to Finance under rule No. 24.

HB 228, imposing an additional one cent tax on motor fuel and fuel other than motor fuel, and dedicating 95 percent of the revenue to towns and cities. Ought to pass. Sen. Keeney for the committee.

Sen. Lamontagne moved an amendment to HB 228.

#### Amendment to HB 228

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

imposing an additional one cent tax on motor fuel and fuel

other than motor fuel, dedicating 95 percent of the revenue to towns and cities, and relative to the construction of the Spaulding turnpike extension and making an appropriation therefor.

Amend the bill by striking out all after section 4 and inserting in place thereof the following:

5 Spaulding Turnpike Extension. Amend RSA 256-C:6 (supp) as inserted by 1971, 520:1 by striking out in lines 7 through 9 the project and amount

“Improvements and two lane extension of Spaulding turnpike. RSA 256-C:2, II Twenty million dollars (\$20,000,000)”

and inserting in place thereof the following:

(Improvements and 2 lane extension of Spaulding turnpike. RSA 256-C:2, II Thirty million dollars (\$30,000,000))

so that said section as amended shall read as follows:

256-C:6 Funds Provided. The following sums are appropriated for the purpose of carrying out the projects authorized by RSA 256-C:2:

Projects	Amount
Improvements to the Blue Star memorial highway. RSA 256-C:2, I	Forty-one million dollars (\$41,000,000)
Improvements and 2 lane extension of Spaulding turnpike. RSA 256-C:2, II	Thirty million dollars (\$30,000,000)
Improvements to Central New Hampshire turnpike. RSA 256-C:2, III	Twenty-eight million five hundred thousand dollars (\$28,500,000)
Construction of Dover-Somersworth interchange number nine of Spaulding turnpike. RSA 256-C:2, II	One million, seven hundred thousand dollars (\$1,700,000)

After completion of the project or projects authorized by any paragraph of RSA 256-C:2, the governor and council may



transfer any balance remaining in the appropriation for such project or projects to other projects under this chapter. The appropriations made by this chapter shall be continuing appropriations and shall not lapse.

6 Borrowing Power Increased. Amend RSA 256-C:7 (supp) as inserted by 1971, 520:1 as amended by striking out in line 4 the words and numerals "ninety-one million, two hundred thousand dollars (\$91,200,000)" and inserting in place thereof the following (one hundred and one million, two hundred thousand dollars (\$101,200,000)) so that said section as amended shall read as follows:

256-C:7 Borrowing Power. For the purpose of providing funds necessary for the appropriations made by RSA 256-C:6, the state treasurer is authorized to borrow upon the credit of the state a sum not exceeding one hundred and one million two hundred thousand dollars (\$101,200,000) and for the purpose may issue bonds and notes in the name and on behalf of the state in accordance with the provisions of RSA 6-A; provided that the bonds may mature up to 30 years from their dates of issue and may be made redeemable before maturity at the option of the governor and council at such price or prices and under such terms and conditions as may be fixed by the governor and council prior to the issue of the bonds. The interest on bond anticipation notes may be funded by the issue of bonds to the extent of the applicable bond authorization and, to the extent not so funded, may be paid from any source from which interest on the anticipated bonds could be paid, including any of the turnpike reserve accounts identified in RSA 256-C:14.

7 Study Requirement Inserted. Amend RSA 256-C:3, II (supp) as inserted by 1971, 520:1 as amended by striking out said paragraph and inserting in place thereof the following:

III. Notwithstanding the provisions of paragraph II, the commissioner of public works and highways may make expenditures for the completion of the engineering work and the acquisition of rights of way for an extension of that part of the eastern New Hampshire turnpike known as the Spaulding turnpike, provided that no expenditures shall be made until such expenditures have been the subject of a public hearing held by said commissioner and such expenditures have been approved by the governor and council following said hearing. Prior to providing the estimate of the feasibility for the extension of the Spaulding turnpike required by RSA

256-C:3, II, the commissioner shall contract with a consulting firm for an economic feasibility study of the New Hampshire turnpike system and receive such report. The study shall include a forecast of revenues and expenditures for all sections of the turnpike including debt retirement schedules for authorized bond issues, any recommended adjustments in existing toll rates which may be required to amortize authorized indebtedness, the feasibility of any recommended adjustments and their effect on U.S. Route 1 and New Hampshire Routes 101 and 125, and the feasibility of constructing at least 2 entrances on U.S. Route 95 for local traffic. Copies of the study shall be made available to the fiscal committee and on contracts for the construction of the Spaulding extension shall be approved unless anticipated revenues are sufficient to pay the estimated future costs of operation, maintenance and debt service for the system.

8 Effective Date. Sections 1 through 4 of this act shall take effect July 1, 1977 and shall remain in effect until July 1, 1982, provided, however, that all moneys in the fund created by RSA 265:4-b shall be distributed in accordance with RSA 241:14 for the following quarter. Sections 5 through 7 of this act shall take effect upon its passage.

Sen. KEENEY: The original bill, a copy of which you may have in front of you was substantially amended by the House and the Senate report of ought to pass refers to the House amended version. The differences are the original bill didn't impose an additional one cent gas tax. It also distributed the monies for class 4 and 5 highways out of the funds that were already being collected and limited them to those accounts that cities and towns received called the A and B funds. The House amended this to add the additional one cent per gallon on motor fuel raising it from 9/10's cents and dedicating 95% of the amount collected to the cities and towns through the highway subsidy fund on the basis of one half being based on the mileage that a town or city has in relation to the total miles of these class highways in the state and the other one half based on their population as related to the total population of the state. This would be an additional change in distribution formula. The remaining five percent of the total collected under the one cent per gallon additional would go to the state highway department. The bill as it was amended in the House also limited the time that this bill would be in eff-

fect from July 1st 1977 through July 1st 1982. It did carry through the original idea of the sponsor that the towns and cities because of the wear and tear on the roads over the past winter because of the rise in cost for all of the construction materials that are needed these days on the road, it carried through this purpose that the towns and cities receive a great deal more from the motor fuel tax than they had been getting in the past. In the past the amount set for towns and cities was a firm amount and was not growing in proportion to their need or to the amounts being collected.

Amendment adopted. (Sen. Foley recorded in opposition.)  
Sen. Trowbridge moved a further amendment to HB 228.

#### Amendment to HB 228

Amend RSA 265:4-a as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

265:4-a Supplemental Road Toll. In addition to the 9 cents per gallon of motor vehicle road tolls now imposed pursuant to the provisions of RSA 265:4, a supplemental road toll of one cent per gallon is hereby imposed for the purpose of this chapter. Said supplemental road toll shall be collected on and after August 1, 1977.

Amend section 6 of the bill by striking out same and inserting in place thereof the following:

6 Subsidy. Amend RSA 241 by inserting after section 14 the following new section:

241:14-a Additional Highway Subsidy. In addition to the subsidy provided in RSA 241:14, the commissioner shall apportion 60 percent of the supplementary road toll collected under RSA 265:4-a to the cities, towns and unincorporated places beginning on January 1, 1978 as an additional highway subsidy. The additional amount shall be apportioned and paid in a manner consistent with and subject to the same restrictions as the provisions of section 14, provided that the commissioner may modify the procedures, as required, to administer this section, and further provided that said payments shall not be offset against the share of the other towns and unincorporated places of the supplemental road toll im-

posed by RSA 265:4-a. These additional highway subsidy funds shall be used only for the purpose of construction or reconstruction of class IV and class V highways and shall be used to increase the highway appropriation of the municipality as of 1977. Under no condition shall dollars received under this section be used for the purpose of matching to obtain additional state funds for other forms of highway aid. Whenever any city, town or unincorporated place is unable to utilize the full amount of their apportionment in the manner herein provided for any given year, as made under this section, the unused balance shall not lapse but shall be added to the total available for distribution to all towns and cities, the following fiscal year.

7 Effective Date. This act shall take effect July 1, 1977.

Sen. LAMONTAGNE: Mr. President, members of the Senate, the reason that I am introducing this amendment to include the Spaulding Turnpike is because somehow there were many legislators in the House that had misunderstood the motion and therefore had moved to lay it on the table. I talked with quite a few of those in the area of where I come from who had voted to table. The intent was that they thought that the matter was just going to be on a temporary basis and it came up on the following Tuesday. Somehow this misunderstanding, deprived those who favored the Spaulding Turnpike, the opportunity of being able to be heard. Now there has already been a test vote when there was a move to indefinitely postpone the Spaulding Turnpike in the House. The House refused to take off the table because they knew that there had been a motion to indefinitely postpone and many of its members did not want to take that chance. Therefore they figured, if the Senate would adopt the amendment on a bill seeing now that the House Bill 85 is on the table, that if it passed this Senate that it could to to the House and hoping to get confirmed. So therefore I am introducing this amendment and what this does is really is asking for an additional 10 million. As you notice the bill calls for \$20 million and is asking for 30 million which is the 10 million dollar increase. This is to make an improvement for a two lane extension on the Spaulding turnpike. This comes under RSA 256-c2. Now I am not going to take any more of your time, I am sure that you people are well aware that this Spaulding turnpike has been coming before us for many ses-



sions and everytime that it came up to us it always was an increase in cost. Again this 10 million means that the construction of today costs more than what it did two years ago. I am hoping that you will adopt the amendment to HB 228. There is also another amendment that will be coming from Senator Trowbridge which I will support after he has made his introduction.

Sen. KEENEY: In the first place how much is this going to add to the cost of the tolls from Nashua to Concord?

Sen. LAMONTAGNE: I have been told that there is not going to be an increase.

Sen. KEENEY: My second question is are you aware of an editorial that, a signed article, which appeared in the Nashua Telegraph which legislators in your area are sending back to us and the article pointed out that this would be a highway to nowhere?

Sen. LAMONTAGNE: Senator I am not aware of this though I am not surprised that the Telegraph did say that because I am sure that the Telegraph is not in favor of this project.

Sen. HEALY: Senator Lamontagne, where is this Spaulding Turnpike?

Sen. LAMONTAGNE: I can say that this is needed and we are isolated up north and we are getting highways closer to the only city in the north.

Sen. HEALY: Senator Lamontagne, my interest in this is pointing out the fact that there is too much localism in our voting on progressive legislation. I will vote for this amendment.

Sen. LAMONTAGNE: Senator let me say this—first, I feel that the people who oppose this piece of legislation, is the people who come from out of state, Massachusetts, those are the people, not local people because it has been proven in the area of Milton where they had a survey and there was 92% of the people who favored this extension of the Spaulding turnpike.

Sen. BERGERON: I rise in support of the pending amendment. To give you a little background on this thing, this battle has been fought over the years and there have been a number of public hearings, there definitely was some misunderstanding. Now this particular stretch of road is a continuation of a road that we had in my district and it runs approximately 11.2 miles of highway with 11 bridges and

three cloverleaves. The reason for the additional monies amongst other things is because of some of the changes that we tried to concede on for some of the people who at one time or another had given some objection to. Now I would like to bring you up to date on a meeting that was held by some people on a particular stretch of highway in my home town of Rochester that were opposed to the road. They came to Concord and had a meeting. Several concessions were given to them; they were somewhat relieved and somewhat happy over the fact and everything seemed to be in order. Of course, let's not digress here to the extent that they would if they had their druthers, they would druther that the road was not built. But I just, in all fairness, the multitude of people that were involved—we have had a number of public hearings—the highway department has had a number of public hearings in that district on the highway. The town of Milton has voted three times overwhelmingly in support of the road. The town of Wakefield at their last town meeting voted overwhelmingly in support of the road. So as far as the people that this involves, other than a small minority of people—there is no objection. I would just like to read from the local paper what they have to say. "The town of Wakefield voted heavily in favor of extension at the March town meeting. They make reference to a particular representative from Wakefield and according to that town selectman he has been against that extension from the start. Residents of the town of Milton were openly distressed at the failure of the additional funding request and this in the town of Milton is where the real bottleneck comes from. They have complained that during summer weekends they are unable to get out of their geographical boundaries of their town in a reasonable amount of time. They have pointed out that they have no doctor in town and no hospital. Emergency vehicles have found it hard to get through when weekend traffic is at its peak. As I say the majority of the people are in support of this extension.

Sen. ROCK: Senator Bergeron somebody was passing around an article by a George Greene or somebody from the Nashua Telegraph that supposedly was opposed to this? Did you ever see this silly article?

Sen. BERGERON: I have never seen it Senator. The only thing that I have seen is a letter written by supposedly 22 people who go all the way from North Conway to

Moultonboro to Freedom, Tuftonborough, Wakefield, Rochester, Milton; other than that I am not—that is the only thing that I have seen.

Sen. ROCK: What portion of the Spaulding turnpike goes through Nashua, would you tell me that?

Sen. BERGERON: None that I am aware of. The Spaulding turnpike runs from Portsmouth to Rochester.

Sen. ROCK: How many copies of the Nashua Telegraph do they sell over in your area?

Sen. BERGERON: I don't subscribe to the paper and I have never seen it on the newstands.

Sen. ROCK: Don't you think it kind of strange that they are worried about a road that doesn't go anywhere near you?

Sen. BERGERON: As I said I haven't seen it; I don't know what their motives are.

Sen. SMITH: Mr. President, I rise in opposition to the amendment. In my district which is north of Milton there is quite a bit of opposition even though Wakefield may have supported it. I think from a planning point of view, a growth point of view, that this could create havoc in Carroll county. I hope that the Senate will vote against the amendment.

Sen. TROWBRIDGE: The amendment deals with the distribution of funds on this bill. As you know the Ways and Means reported, they left the distribution at 95% going to the cities and towns, 5% to the state. My heart is in the right place because I was the original sponsor of the highway subsidy fund in 1969 so I have been for getting some money from the highway department or highway funds to the cities and towns and I have been for it a long time. In that provision we said that it would be not less than 19% of the gas tax shall go to the towns so it does have a growth factor. Here you are coming in with another set. A second set from 9 to 10 cents. We heard from the highway department this time around that the 3.8 million dollars that used to be highway fines is now being diverted to the general fund and I think quite properly. But we cannot keep dipping from the highway fund continuously and not be able to do what we need to do in the highway budget. When the budget comes on the floor today you will find that we are recommending a pay increase. That pay increase in our estimation is to be funded out of a 60/40 split between the cities and towns, 60%, and 40% to the highway department out of this bill. That's what

my amendment does is to provide that 40% shall go to the highway department and 60% of this new cent will go to the cities and towns. And that will divide just about like this. You would get 2.7 million going to the towns extra and 1.8 million going to the highway department. And that 1.8 million will just a little bit more than cover the 7% increase that we are advocating as a pay raise to the highway department employees. So for reasons of equity, I think it is very important that when we do put up the gas tax that there isn't a winner and a loser, the towns get some the highway department gets some. Otherwise, I believe, there is good reason to believe, that the governor would veto this bill if it stayed at 95-5. So I have worked this out with Commissioner Clements I have worked it out with the sponsor, Mrs. Ingram. She understands it, she is in favor of the split at 60-40. The other thing that we did was that we, in my amendment, we also say that, it says that these monies shall be added onto a town's budget. In other words, it will not be one of these deals like the old one, where they could receive the highway subsidy fund, reduce their current appropriation and add this thing in. You take your highway appropriation as of this year, 1977, these funds have to be an add on to the highway department so that the roads that are in Dublin New Hampshire that are crumbling and the highway department wanted us to put on the thing that it had to be used for TRA projects and we did not adopt that. They can be used for any normal highway purpose—resurfacing equipment, anything that would be legal under the constitution for the highway department would be legal for a town to do. We are not specifying what projects they do; what we are not saying is that if Dublin has a 20,000 dollar appropriation now, that it gets 10,000 from this fund, it reduces its own general fund by 10,000 and adds this in. There appropriation if they are going to use it will go to 30,000. That is what we are trying to do so that you will get these town roads back into shape, many of which haven't been touched in years. We all agree on that; the highway department agrees on that because they know eventually they are going to have the problem of these local roads landed on them if there is not some money put into the local roads and city roads etc. So the amendment does two things: it divides it 40/60—40 to the state and 60 to the towns; and it provides the 60% that is going to the towns to be used for highway purposes as an addition. That is what the



amendment is all about and again, it is necessary if you are going to have the pay increase for the state employees.

Sen. MONIER: I think Senator Trowbridge said it but I want to go on record—it is not money going back to be used under TRA; it is money unrestricted for the use of the highway budget in the towns.

Sen. TROWBRIDGE: It is restricted only by the constitutional restriction that it be used by highway.

Sen. POULSEN: Senator Trowbridge, does this follow the same formula and distribution to the towns that the other one did?

Sen. TROWBRIDGE: Yes.

Sen. KEENEY: Senator Trowbridge, the state highway department, I believe it was Mr. Mead, proposed a similar amendment before the Senate Ways and Means Committee and on that there was a set amount going to the towns and cities between fiscal 78 and 82 and it was the amount that you quoted as fiscal 78 2,765,000 and the 1,841,000 plus to the state which you say will cover the pay raises. Is it still a flat or is their a growth to the cities and towns in this 4% growth factor?

Sen. TROWBRIDGE: I am glad you brought that up. I have done so many things between now and then that I can't remember what I am doing, but the point that we were making, Walter Mead was saying, well we will give them a flat sum for the next five years, 2,7 million. I said No, Walter, can't you ever get it that the towns and cities will take their chances with the growth or drop of the highway fund. So it is in here that they get 60% of this cent and the department gets 40%—however that goes. If it goes up or down, or whatever but it is fair, 60/40. So it is in there as a percentage not as a flat number.

Sen. KEENEY: You say that the proportionment is the same as the bill and are you referring to the amended version which came from the house which refers back to RSA265 I believe because in your amendment you seem to be referring back to 241-14a which is the TRA a and d rather than the highway subsidy fund.

Sen. TROWBRIDGE: I don't think that—if you will follow in the back it says here it shall be used as an add-on and no offset. So the I can't completely answer that one, I am pretty sure that this will go to conference anyhow. The point of the operation is that you don't want to have in the old section, it

says you shall take 4.6 million or 19% of the highway fund whichever is greater. And what I want to make sure is that this extra cent wasn't used as an offset against that so that is why the figures here are of the description here of the offset on page 2. It is done so that it doesn't go back; the amounts of funds coming from A and D funds are not counted in the formula; that is the reason for that. There is no question that that it is meant to and will be administered as the way as the other highway subsidy funds of which I was the sponsor in 69.

Sen. KEENEY: Just to give credit where credit is due; HB 228 came to us and the original, the sponsor was listed as Representative Danielle and I understand that we referred to someone else as the sponsor?

Sen. TROWBRIDGE: I thought Mrs. Ingram was; she is known as the gas lady already.

Sen. KEENEY: I know nothing about that.

Sen. TROWBRIDGE: Jean Danielle did an original bill that had nothing to do with the gas tax distribution; Mrs. Ingram put it on; an amendment on the house floor; that is how she gets to be the gas lady. Alright?

Amendment adopted. (Sens. Downing, Foley, Bossie, Keeney, Jacobson recorded in opposition.)

Referred to Finance under rule No. 24.

HB 590, relative to a return transfer of funds from the division of welfare to the division of mental health. Ought to pass with amendment. Sen. McLaughlin for the committee.

#### Amendment to HB 590

Amend the bill by striking out section 1 and inserting in place thereof the following:

I Authorizing Return Transfer of Funds from Division of Welfare to Division of Mental Health. Amend 1975, 505:21 as amended by 1976, 36:1 by inserting after paragraph II the following new paragraph:

III. \$100,000 that still remains of the \$287,970 transferred from the division of mental health pursuant to paragraph II, which will not be necessary to match federal funds for the purpose of reimbursing community mental health facilities in

New Hampshire for services rendered to public welfare clientele under the medicaid program, shall be returned to and is hereby appropriated to the division of mental health to be allocated to community mental health agencies during fiscal year 1977 as follows:

Central N.H. Community

Mental Health Service, Inc.	\$11,000
Great Manchester Mental Health Center	25,000
Lakes Region Mental Health Center	8,500
Monadnock Family and Mental Health Service	10,600
Nashua Community Council	15,500
Seacoast Regional Counseling Center	13,900
Strafford Guidance Center	15,500
Total	100,000

Sen. McLAUGHLIN: This bill is on the transfer of funds from the Division of Welfare, Division of Mental Health. They have taken 100,000 of money and transferred it to different community health centers throughout the state of New Hampshire. We put a program together with a formula as to how it is to be distributed and we are spending the whole 100,000 and recommend its passage.

Amendment adopted. Ordered to third reading.

HB 1126, relative to the New Hampshire retirement system and the state employees' retirement system of New Hampshire. Ought to pass with amendment. Sen. Trowbridge for the committee.

#### Amendment to HB 1126

Amend RSA 100-A:44, as inserted by section 1 of the bill, by striking out same and inserting in place thereof the following:

100-A:44 Employees' System Members; Definition Changed. Notwithstanding RSA 100-A:36-a, any actively employed member of the employees' retirement system, who elected, pursuant to RSA 100-A:36-a, to continue to earn benefits and make contributions in accordance with RSA 100, shall have his average final compensation computed based on the average annual earnable compensation of said

member during his highest 3 years of creditable service, or if he has less than 3 years of creditable service, his average final compensation shall be his average annual earnable compensation during his total creditable service.

Amend section 3 of the bill by striking out same and inserting in place thereof the following:

3 Optional Allowances Provisions Modified. Amend RSA 100-A:13 (supp) as inserted by 1967, 134:1 as amended by striking out the introductory paragraph and inserting in place thereof the following:

100-A:13 Optional Allowances. Any retired member may elect to convert, within 120 days after the effective date of his retirement, the retirement allowance otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value under one of the options named below or to redesignate his survivorship option, which election or redesignation and modified payment shall become effective on the first day of the month following 15 days after receipt by the board of the retirant's written notice of such change. Such notice shall be on a form designated by the board. If a member so electing dies before the first day of said month, the election shall become effective as of the date of his death. When an election of or change in survivorship option is made within the 120 days grace period, no retroactive adjustments will be made in the payments already received by the retirant. After expiration of the 120 day period no change in survivorship option selection shall be permitted.

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 Group I and II Death Benefits Modified. Amend RSA 100-A:9 (supp) as inserted by 1967, 134:1 as amended by striking out said section and inserting in place thereof the following:

100-A:9 Ordinary Death Benefit-Group I and II Members. Upon receipt by the board of trustees of proper proof of the death of a group I or group II member in service indicating that such death was not the result of an accident occurring while in the performance of duty, there shall be a death ben-



efit payable to the member's surviving widow or designated beneficiary or beneficiaries, if living, otherwise to the member's estate. If the member was eligible for service retirement at the time of his death, there shall be payable to his surviving widow an allowance, continuing until her death or remarriage, equal to 50 percent of the service retirement allowance that would have been payable to the member had he retired immediately prior to his death, based on his average final compensation and creditable service at the time of his death. If there is no surviving widow or if the member has designated a beneficiary or beneficiaries other than his widow, there shall be payable to his designated beneficiary or beneficiaries, if living, otherwise to the member's estate, a lump sum benefit equal to the deceased member's annual earnable compensation, in addition to the amount payable under RSA 100-A:11.

If the member was not eligible for service retirement at the time of death, there shall be payable to the member's widow or the member's designated beneficiary or beneficiaries, if other than his widow, if living, otherwise to the member's estate, a lump sum equal to the greater of either: (a) \$3,600 or (b) an amount which is equal to the deceased member's annual earnable compensation at the time of death, in addition to the amount payable under RSA 100-A:11.

5 Return of Contributions of Group I Member Modified. Amend RSA 100-A:11, I(b) (supp) as inserted by 1967, 134:1 by striking out said subparagraph and inserting in place thereof the following:

(b) Upon the death of a group I member in service as a result of causes other than those which meet the requirements for an accidental death benefit as set forth in RSA 100-A:8 and if, at the time of his death, he is not eligible for service retirement or, being so eligible, is not survived by a widow, or has designated a beneficiary or beneficiaries other than his widow, the amount of his accumulated contributions shall be paid to the person or persons nominated by him, if living, otherwise to the member's estate. Upon the death of a group I member in service under circumstances which meet the requirements for an accidental death benefit as set forth in RSA 100-A:8, the amount of his accumulated contributions shall be paid to the person or persons nominated by the member, if living, otherwise to the member's estate.

6 Return of Contributions of Group II Members; Modified.

Amend RSA 100-A:11, II,(b) (supp) as inserted by 1967, 134:1 by striking out said subparagraph and inserting in place thereof the following:

(b) Upon the death of a group II member in service as a result of causes other than those which meet the requirements for an accidental death benefit as set forth in RSA 100-A:8 and if, at the time of his death, he is not eligible for service retirement or, being so eligible, is not survived by a widow, or has designated a beneficiary or beneficiaries other than his widow, the amount of his accumulated contributions shall be paid to the person or persons nominated by him, if living, otherwise to the member's estate. Upon the death of a group II member in service under circumstances which meet the requirements for an accidental death benefit as set forth in RSA 100-A:8, the amount of his accumulated contributions shall be paid to the person or persons nominated by the member, if living, otherwise to the member's estate.

7 Designation of Beneficiaries; Effect Clarified. Amend RSA 100-A by inserting after section 13 the following new section:

100-A:13-a Designation of Beneficiaries; Effect. When more than one person is designated by the member as beneficiary under this title, the member may provide the portion of the whole sum which each designee shall receive and may also provide that on the death of one of multiple designees the share of that designee shall automatically be added to the share of another or other designees or be payable to the estate of the member.

8 Effective Date. This act shall take effect upon its passage.

Sen. TROWBRIDGE: This bill came into us and it had to do with just changing the statutes really as to what option a person can take; and we were given the example of a person who retires and as of the date that he had retired, he opted to take a certain form of payment which is available to him. There was a thing in the statute that said, 30 days later within the next 30 days it can't be changed. He died within the next 30 days. The forms had not reached the board and that 30

days periods; so the board decided not to take the option that he had selected but to take the option as if you had made no option. And this whole bill—all the language that is in here, is our effort to come in and make rules saying that the board should carry out the intention of the retiree as much as possible and not make arbitrary decisions just because the forms haven't reached them. And so it works all through that, accidental death and everything else. This is a housekeeping bill.

Amendment adopted. Ordered to third reading.

### SUSPENSION OF RULES

Sen. Jacobson moved that the rules of the Senate be so far suspended as to allow that the calendar for June 13 be taken up at the present time.

Sen. Fennelly moved the previous question.

Adopted.

Sen. Brown requested a roll call. Seconded by Sen. Downing.

The following Senators voted yea: Lamontagne, Poulsen, Smith, Gardner, Jacobson, Saggiotes, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Sanborn, Brown.

The following Senators voted nay: Bradley, Bergeron, Keeney, Hancock, Healy, Provost, Bossie, Fennelly, Downing, Preston, Foley.

13 yeas 11 nays

Motion failed by the requisite 2/3 majority.

### COMMITTEE REPORTS

HB 460, amending the formula for computing the elderly real estate tax exemption and providing for local option of the expanded elderly real estate tax exemption based on assessed value. Ought to pass with amendment. Sen. Downing for the committee.

## Amendment to HB 460

Amend the bill by striking out all after section 1 and inserting in place thereof the following:

2 Tax Exemption, New Formula. Amend the introductory paragraph of RSA 72:43-b, I (supp) as inserted by 1975, 397:1 by striking out said paragraph and inserting in place thereof the following:

I. Residential real estate, as defined by RSA 72:29, II, shall be exempt from taxation as specified in subparagraphs (a), (b) or (c) as follows:

3 Ballot Question. Amend RSA 72:43-a, I (d) (supp) as inserted by 1975, 397:1 by striking out said subparagraph and inserting in place thereof the following:

(d) The wording on the ballot of any referendum for the adoption of this subdivision shall be as follows: "Shall we adopt the provisions of RSA 72:43-b and 43-c for expanded exemptions on real estate which provide for a resident 65 years of age up to 75, a \$5,000 exemption; a resident 75 years of age up to 80, a \$10,000 exemption; a resident 80 years of age or older, a \$20,000 exemption, provided that the resident owns the real estate individually or jointly with another or his spouse with whom he has been living for at least 5 years as man and wife; said resident had a net income of less than \$7,000 or combined income with spouse of less than \$9,000; and owns assets of any kind, tangible or intangible, less bona fide encumbrances, not in excess of the value specified in RSA 72:43-c, III; provided that the exemptions shall be based upon the assessed value of the real estate.

4 Effect of Vote. Amend RSA 72:43-a, V (supp) as inserted by 1975, 397:1 by striking out said paragraph and inserting in place thereof the following:

V.(a) If the provisions of this subdivision are adopted by a town or city that had not previously adopted this subdivision, the provisions of RSA 72:39 and 72:40 are no longer effective in that town or city provided, however, under no circumstances shall less benefits be given under the provisions of this subdivision than those provided in RSA 72:39 and 72:40.

(b) If the provisions of this subdivision have been previously adopted by a town or city and the town or city does not accept the provisions of this subdivision as amended, the



town or city shall continue to grant the expended elderly exemption based on equalized assessed valuation.

(c) If after adoption of this subdivision as amended a town or city votes to rescind such adoption, RSA 72:39 and 72:40 shall take effect at the same time such rescission becomes effective.

5 Referendum for Certain Cities or Towns. On and after the effective date of the amendment which bases exemptions upon the assessed value of the real estate and not the equalized assessed value, exemptions based upon the assessed value as effected by said amendment shall not be operative in any city or town which had previously adopted RSA 72:43-b and 72:43-c pursuant to RSA 72:43-a as constituted prior to said effective date. Such cities and towns shall hold a referendum within one year of the effective date of said amendment pursuant to the provisions of RSA 72:43-a, I or II, except that the wording on the ballot of such referendum shall be as follows:

“Shall we adopt the new provisions of RSA 72:43-b relative to expanded exemptions on real estate for the elderly, changing the basis of the exemption from the equalized assessed valuation to the actual assessed valuation?” Upon approval of the question by a majority of those voting on the question, the amended provisions of RSA 72:43-b shall be deemed to have been adopted and shall take effect on April 1 next following the referendum for the tax year beginning on such date. If the question is answered in the negative by a majority of those voting on the question, the exemption given pursuant to RSA 72:43-b prior to amendment shall remain in effect.

6 Effective Date.

I. Section 1 shall take effect April 1, 1978.

II. Section 2 through 5 shall take effect April 1, 1977.

Amendment adopted.

Sen. Lamontagne moved a further amendment to HB 460.

## Floor Amendment to HB 460

Amend the title of the bill by striking out same and inserting in place thereof the following:

## AN ACT

amending the formula for computing the elderly and expanded elderly real estate tax exemptions and providing additional notice of available tax relief.

Amend the bill by striking out section 6 and inserting in place thereof the following:

6 Notice on Inventory Form. Amend RSA 74 by inserting after paragraph IV the following new paragraph:

V. A statement reading, "You may be eligible for the following property tax relief:

(a) A tax lien pursuant to RSA 72:38-a for a resident who is 65 years of age or older, or is eligible for benefits for the totally and permanently disabled under the federal Social Security Act as amended and has owned his homestead for at least 10 years. The tax lien may be granted by the selectmen or assessors up to 85 percent of the equaled assessed valuation of the real estate.

(b) An abatement from property tax pursuant to RSA 76:16 may be granted by the selectmen or assessors on any tax assessed by them for good cause.

(c) Further details on property tax relief may be obtained from your selectmen or assessor."

7 Publication of Notice of Exemptions. Amend RSA 72 by inserting after section 68 the following new section:

72:69 Publication of Notice by Selectmen or Assessors. As soon as practicable after February 1, and twice more before February 28, the selectmen or assessors shall publish in newspapers of general circulation in that locality a notice reading substantially as follows:

NOTICE TO TAXPAYERS ENTITLED TO REAL  
ESTATE EXEMPTIONS

Notice is hereby given that applications for exemptions for veterans, the blind, the elderly, for improvements to assist the physically handicapped, for solar energy systems and for wind powered energy systems from real estate taxes in (the

town or city of) ..... must be filed on or before April 15, 19\_\_\_\_. Application forms may be obtained at ..... Said notice shall be printed in a space at least 3 columns in width and 6 inches in depth in type sized at least 24 point or its equivalent.

8 Effective Date.

I. Section 1 shall take effect April 1, 1978.

II. Sections 2 through 5 shall take effect April 1, 1977.

III. Sections 6 and 7 shall take effect 60 days after its passage.

Sen. LAMONTAGNE: Mr. President, members of the senate, the proposed amendment that I am offering now is a notice on involuntary form and by amending RSA 74 by inserting after the paragraph—for the following new paragraph—a statement reading “you may be eligible for the following property tax relief a) a tax lien to the RSA 72-38 for residents who are 65 years of age or older or is eligible for the benefit for totally or permanently disabled under the federal social security act as amended and has owned a homestead for at least ten years.” So the board of assessors of the board of selectmen would have a notice so that these senior citizens and those permanently totally disabled would be able to see the notice in the newspaper.

Amendment adopted. Ordered to third reading.

HB 616, increasing certain fees charged by state agencies. Ought to pass with amendment. Sen. Downing for the committee.

#### Amendment to HB 616

Amend the bill by striking out section 75 and inserting in place thereof the following:

75 Beverage Permits. Amend RSA 181:16 as amended by striking out said section and inserting in place thereof the following:

181:16 Fees. The annual fees required for permits issued pursuant to provisions of this chapter shall be as follows: For each on-sale permit, \$175; and for each off-sale permit, \$100; for each manufacturer's permit, \$750; for each wholesaler's

permit, \$750; for each solicitor's permit, \$10; for each vehicle permit, \$1; for each carrier permit, \$50 plus \$1 for each vehicle employed in the transportation of alcoholic beverages within the state; for each vessel permit, \$50 per vessel; for each dining-car permit, \$100, which shall be issued to the railroad corporation; and for each special permit, \$1. The required fee shall accompany the application. A permit, other than a special permit, shall expire May 31, unless sooner revoked for cause by the commission. Permits shall not be transferred except with the consent of the commission and each permit, except a solicitor's permit, shall designate the place of business for which it is issued. The commission may issue permits and licenses for one half the established fee to any permittee or licensee who operates his licensed premises for a period of time not to exceed 4 consecutive months per licensing year. The term "permit" as used in this chapter shall be deemed to be a "license" within the meaning of RSA 332-A:2.

Amend the bill by striking out sections 111 and 112 and inserting in place thereof the following:

111OHRV Fees. Amend RSA 269-C:18 (supp) as inserted by 1973, 560:1 as amended by striking out said section and inserting in place thereof the following:

269-C:18 Registration Fees. The fees to be collected under this chapter are as follows:

I. Individual resident registration—\$11 for each registration upon presentation of resident tax receipt, or tax receipt of parent or guardian.

II. Individual nonresident registration—\$17 for each registration.

III. Dealer registration—\$12 for each plate or set of plates; rental plates—\$12 for each plate or set of plates.

Iv. Registration after transfer as provided in RSA 269-C:17 is \$4.

V. From each registration fee collected pursuant to paragraphs I through IV, distribution shall be as follows:

(a) The first \$2 and 45 percent of the balance shall be appropriated to the department of resources and economic development for administration of the bureau for the following:



1. Publications.
2. Trails.
3. Easements and rights of way.
4. OHRV facilities.

5. Grants-in-aid to organized non-profit OHRV clubs and political subdivisions for the construction and maintenance of OHRV trails and facilities. The bureau shall make grants on such terms as it deems necessary and shall determine what trails and facilities shall be eligible. All trails and facilities developed and maintained under this grant-in-aid program shall be open to the general public.

6. For such other purposes as may be budgeted within the limits of the funds available.

7. Two dollars of the amount collected from each individual registration fee shall be used by the bureau for its grant-in-aid program. These funds shall be kept in a separate account and shall not be used for any other purpose. Any unexpended balance in said account shall not lapse, but shall be carried forward to the next fiscal year.

(b) No more than 40 percent shall be appropriated to the state fish and game department for the following:

1. Enforcement of the provisions of RSA 269-C.
2. Establishment of training programs in the operation, safety, regulations, equipment maintenance and other related matters pertaining to the OHRV.
3. Such other purposes as may be budgeted within the limitations of the funds available.

4. The director of fish and game shall be responsible for law enforcement under this chapter.

(c) No more than 15 percent of the balance of the registration fee, and the fees collected under paragraph III, shall be appropriated to the department of safety to provide for OHRV registration and enforcement. Such funds shall be budgeted within the limitations of the funds available.

VI. Any registration fees collected and not appropriated shall be transferred to the general fund.

112 Effective Date. This act shall take effect July 1, 1977.

Amend the bill by striking out section 11, 12, 25 and 51 and renumbering sections 13 through 112 to read as

11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32  
 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54  
 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76  
 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98  
 99 100 101 102 103 104 105 106 107 and 108 respectively.

Sen. DOWNING: This bill reorganizes to the extent that we have already passed legislation pertaining to this. A new section has been added relative to highway vehicles, the snow-mobiles, there is an increase in fees there.

Sen. TROWBRIDGE: Senate finance has no objection to the amendment and that the 1.6 million is in our calculations.

Amendment adopted. Ordered to third reading.

HB 579, amending the interest and dividends tax relative to the rate, method of distribution, and number of exemptions for the elderly or blind. Ought to pass with amendment. Sen. Downing for the committee.

#### Amendment to HB 579

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 Effective Date. This act shall take effect July 1, 1977, except section 3 which shall take effect January 1, 1978.

Amendment adopted. Ordered to third reading.

(Sen. Bradley, Hancock, Foley and Gardner recorded in opposition.)

Sen. DOWNING: The committee amendment deals with the effective date which is in the amendment.

Sen. SMITH: I have a full explanation of the content of the bill as it is now coming before us.

Sen. JACOBSON: Is this 10% or 5% that is going to go to the state, is that what we are saying?

Sen. DOWNING: 10% yes.

Sen. JACOBSON: And not  $\frac{3}{4}$  of 1% going to the state as was the original proposal?

Sen. DOWNING: Right.

Sen. TROWBRIDGE: Senator what is your revenue estimate to the state from the interest and dividends tax?

Sen. DOWNING: The same as it has been Senator, 1.4 million.

Sen. TROWBRIDGE: Okay, so that is carried forth. In your change, it may have been answered already but I better ask it. In your change the effective date, did that make any difference in your revenue estimate?

Sen. DOWNING: I think it put the revenue estimate and

maintained the revenue. It would have been maintained.

Sen. JACOBSON: What this bill does is for  $\frac{1}{2}$  of this year we will be at  $4\frac{1}{4}$  percent and  $\frac{1}{2}$  of the year will be at 5%. Is that what this amendment does?

Sen. DOWNING: The new rate will begin as of July 1st.

Sen. JACOBSON: So those who are paying are going to pay for six months on  $4\frac{1}{4}\%$  under the old formulas and 5% for the last six months?

Sen. DOWNING: Yes.

Sen. SMITH: Mr. President, I don't know how I rise, whether in opposition or not. But I am concerned with the complexities of trying to figure out an interest and dividends tax based six months on one rate and six months on another. But more importantly and I don't object to an increase to 5% but I think the Senate should be aware and it is something which disturbs me greatly is that again the state is invading what has been historically revenue sources for the towns. I think this is a bad precedent, I think possibly it is needed to help balance the budget. But I think here again, we are undermining revenues which do go to the towns and even the distribution of it. Now the change in distribution is based on population rather than returning to the town funds to the towns where the money came from. I don't object to that but I think to invade areas where the towns have historically had a source of revenue is a precedent even for voters.

Sen. JACOBSON: Senator Downing, also in the original bill, does it raise the exemption to 1200 dollars for those over 65?

Sen. DOWNING: Yes that was the additional \$600 I referred to Senator. Over 65 and for the blind.

Sen. BRADLEY: I rise just briefly to state that I am against this kind of nickle-diming tax. I don't feel that my constituents sent me down here to vote for this sort of thing. In fact, the overwhelming input that I am aware of is contrary to this sort of thing, particularly the aspect that begins to take the interest and dividends tax which historically belongs to the towns and cities. I just think that we have better ways to raise revenue. Others may not agree but that doesn't mean that I shouldn't stand up and register my opposition.

Sen. FOLEY: Mr. President, I was one of the members of the committee who voted against the bill. I too do not feel that we should be getting the money by increasing the inter-

est and dividends tax.

Sen. BLAISDELL: Senator Bradley, would you now agree that this wipes out the idea that we do not have an income tax in the state of New Hampshire?

Sen. BRADLEY: Senator, I don't think that this wipes it out; that has been wiped out for a long time.

Sen. BLAISDELL: But the agreement hasn't been there—don't you think this helps to bring the agreement to that point?

Sen. BRADLEY: I think this certainly highlights the fact that we already do have an income tax.

Sen. BLAISDELL: Thank you Senator.

Sen. JACOBSON: Mr. President, I have great difficulty with this bill. First is the issues that Senators Smith and Bradley have raised to which I agree. I also have difficulty with the exemption question; not with the one that has to do with the blind but the one that has to do with over 65. There are those persons who are over 65 who receive very large incomes through interest and dividends and the tax could be applied to them. There are also people I know who have very small incomes and who in fact do not pay a federal income tax but under the present statute are required to pay an interest and dividends tax. I think that is the question that ought to have been addressed in which those people who have no incomes and the only money that they have may be a few bonds. I know several instances where they have sold their house and they are enjoying a mortgage plus interest return rather than to get it as one lump sum because they can earn a few more dollars by holding the mortgage themselves. This has been their basic investment and it is not a great amount of money and yet I know of one instance in which they pay no federal income tax but are paying over 200 dollars worth of interest and dividends tax when they can't really afford the 200 dollars.

Sen. MONIER: We are really talking about an increase of 1.4 correct? Is the addition the part that does not go back to towns and cities? So the debates that we have been hearing here about how they are losing actually they are not gaining they are not losing what they already have.

Sen. SMITH: Senator Downing that is not quite true is it in that you are increasing for the 65 and over the exemption so that those people who are over 65 the exemption is increased and therefore they will be paying less or nothing so



that these funds will not return to the town so there would be a reduction there would there not?

Sen. DOWNING: It is the net result senator that we are talking about.

Sen. SMITH: If there is a return because of instead of  $\frac{3}{4}$ 's of 1% as I figure it it is now half of one percent. Is that correct?

Sen. DOWNING: Yes.

Sen. SMITH: How do you determine there will be no net reduction to the towns when you increase the exemptions. So what you are saying is that you are increasing the tax  $\frac{3}{4}$  of one percent; one third of the increase goes to the towns and two thirds goes to the state, is that correct?

Sen. DOWNING: This bill came out of the House Senator, they had a new distribution on this which holds harmless all communities, they can't receive any less than what they received in 1976. Some communities in fact may receive more money. As it increases from this point on some definitely receive more money as the need shifts within the state.

Sen. SMITH: If there is a hold harmless clause in the bill and some of the towns get more money but there are some which don't get as much; who makes up the difference?

Sen. DOWNING: No community will receive any less.

Sen. SMITH: So what you are saying is then that if no community is to receive less those towns which might receive more, that will be taken away from them and given to the towns which under this formula, did receive less. Is that correct?

Sen. DOWNING: Yes.

Sen. BRADLEY: Senator Downing, in the past when the interest and dividends was increased that all did go to the towns and cities so that it is fair to say that even though we have this save harmless business in here that what we are taking from the towns is the opportunity to get the benefit of this increase or probably future increases in the interest and dividends taxes if there are any.

Sen. DOWNING: There is a percentage of it which is being diverted to the general fund and all your communities are going to be, the same formula is going to be applied to each community. Now there is no flexibility in the plan at all;

once you are on line that's it. You stay in that pattern.

Sen. BRADLEY: But you do agree don't you that whereas in the past and under the existing law the towns, looking at them as a whole, would get the benefit of any increases in the rooms and meals tax whereas now if we pass this they are not going to get the benefit of at least as much increase; that they are going to start sharing this with the states and they have lost that opportunity?

Sen. DOWNING: Personally Senator I think that they will receive as far as the amount of money that is distributed among the towns, I think that will be pretty much as it was. The only thing is unclear.

Sen. JACOBSON: This question is for my information. It also has a formula for rooms and meals tax and this interest and dividends tax, 579?

Sen. DOWNING: No the formula is suggested for the rooms and meals tax also.

Sen. JACOBSON: In this bill?

Sen. DOWNING: No in the rooms and meals tax bill.

Sen. JACOBSON: So there is no formula in this in response to the questions of Senator Bradley?

Sen. DOWNING: Yes there is a formula in this.

Sen. JACOBSON: Senator would you explain the formula to me again?

Sen. DOWNING: Yes the formula is based upon the equalized valuation of the community; it is based on population in the community and it is based on the taxes of the community. That formula was introduced on this particular measure in the House Senator. That is the way it came to the Senate. The committee didn't change that formula and it is a hold harmless.

Sen. JACOBSON: Now as I understand it senator, the present situation is at  $4\frac{1}{4}\%$  goes to the towns on the interest and dividends tax. The entire amount except for administrative costs go to the towns presently. Under this we are raising it to 5% and we have in that  $\frac{3}{4}\%$  a formula that relates to equalized valuation etc.

Sen. DOWNING: Right.

Sen. JACOBSON: And that no town will receive less than it receives in 1976?

Sen. DOWNING: Right.

Sen. JACOBSON: Now I know that in a number of towns

a number of people are over 65; in fact I suspect that a very heavy percentage of people are over 65 who are paying the interest and dividends tax. At 5% increase they are going to get 300 dollars less; that is in revenue than they do presently. Is that not correct?

Sen. DOWNING: That would be 5% of an additional \$600.

Sen. JACOBSON: Which would be \$300?

Sen. DOWNING: No that would be 50%. It is 30 dollars.

Sen. JACOBSON: Yes that's right. So that could add up to a considerable sum in some towns but even though it adds up to that sum the money will remain the same as it was previously so that any loss that was incurred would be loss that comes to the operating budget.

Amendment adopted. Ordered to third reading.

(Sen. Bradley, Hancock, Foley and Gardner recorded in opposition.)

HB 582, providing for additional state revenue. Ought to pass with amendment. Sen. Downing for the committee.

### Amendment to HB 582

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Meals and Room Tax Disposition. Amend RSA 78-A:23 as inserted by 1967, 213:1, as amended by striking out said section and inserting in place thereof the following:

78-A:23 Disposition of Funds. The department of revenue administration shall pay over all funds collected under this chapter to the state treasurer, for deposit in the meals and rooms tax fund. On or before October 1 of each year, the

department of revenue administration shall determine the cost of the administration of this chapter for the fiscal year ending on the preceding June 30 and it shall notify the state treasurer of these costs by a report certified by it as to its correctness. After deducting the costs of the administration of the chapter from the total income and on or before October 15 of each year, the treasurer shall distribute the net income as follows:

(a)  $66\frac{2}{3}$  percent into the general fund;

(b)  $33\frac{1}{3}$  percent to the towns and cities according to an equalized formula calculated by taking for each city and town the amount of local property taxes assessed, including current distributions of state revenues to local government, exclusive of education funds; dividing that sum by the local equalized valuation as determined by the board of taxation; and multiplying the result by the local population to produce an equalizing factor for each city and town. Such equalizing factors shall be added together to produce a total state sum. Each local equalizing factor shall be divided by the total state sum to produce for each city and town a normalized factor. Each such normalized factor shall be multiplied by the total amount of revenue to be shared by the cities and towns to produce the annual share for each city or town. Provided, however, that no city or town shall receive under the provisions of this section an amount less than its 1976 distribution under this section. The funds of any such adjustment shall be provided by a pro rata reduction in the amounts distributed to those cities and towns otherwise receiving more than the 1976 distribution.

Sen. TROWBRIDGE: Do I take it that Senator Downing is offering the amendment that has to do with contracts at the present time?

Sen. DOWNING: At the present time the committee report is on the equalization formula referring to the rooms and meals tax.

Sen. PRESTON: Senator Downing, does this do away with the percentage for the operators of the hotels or restaurants?

Sen. DOWNING: The percentage? No that is in the bill



now. The incentive is still there for the people to pay their taxes on time and get it in early.

Sen. PRESTON: Is that done in the same proportion or share of percentages that had been done prior to this?

Sen. DOWNING: No the percentages in that didn't change.

Sen. BRADLEY: Senator Downing, is there anything particularly magical about September 30th, I know we considered even a later date because of the, particularly the question of foliage time?

Sen. DOWNING: The two days that were suggested Senator were October 1st and later November 1st. This was just our opinion that this would take care of all the quotations that are out now.

Sen. BRADLEY: If this goes to a committee of conference and it can be demonstrated that enough of a number of people are already permitted for the month of October, do you think at least the Senate conferees would be open to postponing that at least until November 1?

Sen. DOWNING: I have no reservations about that at all.

Sen. FENNELLY: Wasn't the purpose of this amendment to take care of any problems—for example, Senator Bradley might have had with people who were pre-contracted for conventions; the very same problem that was brought to us on the seacoast?

Sen. DOWNING: Yes and the amendment does that too. Senator Bradley's question is that if it could be sufficiently demonstrated that further allowance was needed would the conferees in any conference committee be amenable to considering that and I thought that they would. I think that Senator Bradley will find that this amendment will take care of that.

Amendment adopted.

Sen. Downing moved a further amendment to HB 582.

#### Amendment to HB 582

Amend the bill by striking out section \_\_\_\_\_ and inserting in place thereof the following:

Application of Laws. The increased rate of tax imposed in

RSA 78-A:6 as inserted by section 1 of this act shall not apply as to the extent of the increase to those occupancies and taxable meals which are sold or contracted for prior to July 1, 1977 for the period from July 1, 1977 through September 30, 1977. The rate for such occupancies and taxable meals shall be the rate imposed by RSA 78-A:6 prior to its amendment by section 1 of this act and shall be available only to those operators who prove through documentation satisfactory to the commissioner of revenue administration that such occupancies and taxable meals are sold prior to July 1, 1977.

Effective Date. This act shall take effect July 1, 1977.

Sen. FENNELLY: Thank you Mr. President. I rise in complete opposition to this type of taxing. I agree with Senator Bradley to a degree; this is patchwork type of legislation. This bill zeroes in on a certain segment of a population more than any other and it hurts them more than any other. Number one, zeroes in on the retired people. A lot of testimony in committee—oh the tourists are going to pay for it—untrue. 61% of the population in this State will pay this tax and the retired schoolteachers and the elderly. When we pass a rooms and meals tax increasing it 1% the impact of that by the restaurant association must go up. If you are paying 35 cents for a cup of coffee you are now going to be paying 40 cents. So it isn't one percent it is one percent if you are going to pay 5.95, you are going to pay 6.95. The restaurant association will pass this on to the general public and this type of taxation which zeroes in against a certain segment of the population and my belief is that it should be defeated and I urge the Senate to support my motion.

Sen. SMITH: I rise in support of the motion. Senator Fennelly, there are additional reasons one of which is that our neighboring states are at 5%. Massachusetts is now in the throes of a battle to reduce theirs from 8 to 5 and further it seems to me that it won't affect this state's revenue this year but when the new packages come up next year or tourists through the state this is going to reduce revenues if we are out of line with other states, our neighboring states. What it reduces revenues, it is going to reduce jobs and it is going to reduce income into the state of New Hampshire in the recreation business and very simply, I think again, this is another tax narrowing down on a segment of the population. One

segment and one industry and they too pay a business profits tax. They pay all the other taxes but in addition they are forced to collect the rooms and meals tax and I hope that the Senate will go along with the motion.

Sen. ROCK: Senator you alluded to the fact that these people pay a business profits tax and that is true, but isn't it also true that they don't pay the rooms and meals tax, the customer pays that tax.

Sen. SMITH: That is correct.

Sen. POULSEN: Mr. President, I rise in support of this motion and support of what Senator Smith said. The recreation industry in New Hampshire, the hotels and restaurants have no comparative advertising by the state as other states do. Both Vermont and Maine advertise the tourist industry. The state of New Hampshire has been niggardly compared to the others and these people largely do their own advertising, their own promoting and I think this is going to be a hard blow for them to swallow.

Sen. JACOBSON: Just for a point of clarification Senator Fennelly, as you spoke, you said that the tax which would be passed onto the consumer by the recreation and resort owners—the fact is that it is directly passed on.

Sen. FENNELLY: It is directly but you open up the door to a much greater leverage to a great degree of the charges of prices, that is the point that I was trying to bring out in a much greater degree than the one percent.

Sen. JACOBSON: So the final problem is not the passing on but the actual potential of reduced revenue vis a vis having a higher tax?

Sen. FENNELLY: That is correct. As Senator Smith said, Massachusetts is on the verge of rolling back from 8 to 5.

Sen. FOLEY: Mr. President I rise in agreement with the motion that this be indefinitely postponed. We had some excellent testimony at the hearing and they stated that the split is 60/40 or 61/39 as far as in-state people; the 61% of the taxes paid by in-state people so we once again hurting our own people. Secondly, because some of the convention hotels and resort hotels have made out their formulas and have sent in contracts for some of them four and five years ahead as far as conventions go and give a flat rate so this is certainly not going to help the large hotel owners who have already signed contracts for certain amounts of money. Third, I think also because since 1967 or whenever we set

this tax, we found a group of people that we could ask to collect the money for us and it just seems that we are going backwards.

Sen. TROWBRIDGE: If I have to be the last one to make this vote go over I am going to vote for it because I can't be leaping on two different shoulders. You can't weep for the little people who are going out and eating and then not weep for the people who don't have the money to go out to the restaurant and eat. It goes right around in a circle and I think that you have to figure at some time that those people who do have the ability and the budget to go out and eat and go to the Wentworth or go here and there are not probably going to stop going because of the extra percent in the rooms and meals tax and I would question whether there is any resort in this state who is going to be in business very long who has contracts going out five years or more who doesn't have an escalation clause in it that will take care of things like an additional percent on the tax. I have thought long and hard about this, I would like very much to be able to say that we don't need it and that we should tax other industries because I think it is unfair but at this point the responsibility of what we have in front of us and when I say that we were able to fund the cost of living retirement for the older employees at 2.6 million then we were able to fund in this budget a 7% increase for the state employees and for the university employees and if you want to take 7 million dollars out of this budget that is where it is coming from—because there is no other place to go and I urge you to think hard about that when you make this vote.

Sen. HEALY: I rise in support of the motion by Senator Fennelly. I would like to point out a couple of things about the food tax and so forth. I can recall when this was first put into effect. Any tax or any food served whether ice cream or whatever under \$1.00, was not taxed. It is the same old story. Once you get your foot inside the door you start taxing everybody and everything. Then it went up to taxing people who bought even a 15 cent cup of coffee at the time which is now 25 cents and so forth. Everything seems to be in a trend of raising taxes that have begun. They start out with a small food tax and first thing you know it is double, triple. And now they want to add again to it. A couple of years hence, they'll want to add once more to it. So I want to say that I strongly oppose this tax. Furthermore, I come from an indus-



trial area where people get out to eat and they do about once a week or so. They can't afford to go to dinner every night. They can't afford all these taxes but they do need a little bit of leisure and a little bit of living. They like to get out once and a while and have a dinner but when they have dinner they don't like to be paying a big tax on their food. They work hard, they pay their income tax, they pay this tax and about every tax going. Where is it all coming to. Where is it all headed for? To me I think this is ridiculous and I am going to vote against any increases on these kind of taxes.

Sen. BERGERON: Senator Healy, would you think that the time is now to have some tax reform in the state of New Hampshire?

Sen. HEALY: I would say that is overdue.

Sen. BERGERON: How come you would vote against my tax study which would be tax reform?

Sen. HEALY: What tax reform measure?

Sen. BERGERON: No further question.

Sen. ROCK: Senator Healy I know that if there were a 6 million dollar figure in here that was going to fund some pay raises for judges that would be one of the things you would like to take out of the budget and since there isn't and we are talking about 6½ million dollars I just wonder where would you like to cut—do you want to cut the pay raise of the employees?

Sen. HEALY: Senator I do not want to cut the pay raise for the State Employees.

Sen. ROCK: Do you want to cut out the work that we did at Laconia school to improve their status?

Sen. HEALY: I want to add to the work at the Laconia schools but I also have a measure that is buried in the walls in hibernation that could be brought forth and I'll ask you Senator—afterwards—.

Sen. ROCK: Let's say up in your industrial city of Manchester where people like to go out once or twice a week, you take one of the nicest restaurants, let's take—. Four people go out and they eat at the country club, the Mill Yard, and they have a couple of cocktails and the meals and the cocktails for the four people comes to \$52.00. Do you know what you are talking about? You are talking about an extra 50 cents on a 52 dollar four person tab, now do you think that is unreasonable to fund some of the things we are trying to do for the people of this state?

Sen. HEALY: Senator if you are talking about the people who are eating in the Mill Yard restaurant you are not talking about the working class, that is an expensive restaurant.

Sen. ROCK: How much is the average meal there?

Sen. HEALY: It would be 2.50 to \$3.00.

Sen. ROCK: You're talking about 3 cents then Senator. Is that a lot of money to ask?

Sen. HEALY: It is when you are paying all kinds of taxes for other things and when this tax was first placed in effect they were not even paying for ice cream taxes and so forth. Do you think the kids should have to pay every time they buy an ice cream cone?

Sen. ROCK: What are we going to run the state on? This is why I had hoped we could talk about the budget first, are we going to run it on tolls—you have to have some money Senator.

Sen. HEALY: I understand that.

Sen. ROCK: This is 6 million dollars that is going to fund the pay raise.

Sen. HEALY: Senator did you ever hear of the slot machine?

Sen. ROCK: Yes I did.

Sen. HEALY: Do you like to play a slot machine once and a while?

Sen. ROCK: Yes I do.

Sen. HEALY: You need a few dollars when you are going to play a slot machine.

Sen. ROCK: I've played one for a nickel.

Sen. HEALY: The average person is not going to play the slot machine. The conservative working man doesn't have that money to play the machines, is that right?

Sen. ROCK: I don't know it is true.

Sen. HEALY: I'll say it is true. You can take my word for it. Do you think that the word casino might raise some money also.

Sen. ROCK: Did you hear the vote in the House on slot machines and casinos Senator?

Sen. HEALY: I'd like to hear what you have to say there because I heard the vote in the House coming out with big tax bills too and wanting the public to pay these taxes of which I am opposed to. So, therefore, I am entitled to say that I am against this tax right?

Sen. ROCK: Yes. You are entitled to say that but I am saying what are you going to put in its place?

Sen. HEALY: I am suggesting that we use casino or slot machines or a combination of both.

Sen. ROCK: But Senator we don't have a casino bill, we don't have a slot machine bill. Show it to me in this pile of papers that goes back to George Washington's original order in crossing the Delaware. There ain't no slot machine bills.

Sen. HEALY: There is a slot machine bill in the woodwork; it's in hibernation. It could be brought out. It was referred to an interim committee.

Sen. SAGGIOTES: Senator Trowbridge, for my edification and the rest of the Senate, we are coming down to the ends of the lines as far as revenue possibilities are concerned. Would you please inform me and the rest of the members as to what the remaining options are as far as bill proposal and the amount of money involved.

Sen. TROWBRIDGE: As far as I know if you are talking about the proposals that have been put into joint rules I assume, I have yet to really surface these bills that are proposed. Our committee put forth the possible carbonated beverage tax which would be the same as the beer tax, 15 cents per gallon. We haven't seemed to have too much resistance to that. In fact I talked to one of the distributors today and he didn't even mention it. That would raise 8 million, maybe a little bit more but we are being conservative and that is on our balance sheet. We are counting that. We are also counting, Senator Saggiotes own idea, the general admissions tax which is proposed there and that is at 3 million. There is another tax on lucky seven which Webster Bridges and the Sweepstakes Commission have brought in that would raise possibly 2 million. I understand that Senator Fennelly has proposed a land tax and I think it is one percent of the entire equalization value of the state. That is before the committee. The governor's tax which is ten dollars additional residence tax which is also being prepared for introduction. That is on our list of balancing items. The change in the business profits tax payment date for 5 million dollars is around. There may be another one that I have missed, I am not sure, but somebody also mentioned what I would call a luxury tax which was on certain items that was proposed to the joint rules committee as well which had to do with diamond rings and boats and serious things like that. Sunday liquor stores were

on our list and we'll have to discuss that further but I think that you can see that there are other areas that are being discussed and with the recognition that if these things are not passed you are going to have to face another one. So is that an answer to your question?

Sen. SAGGIOTES Yes it is. Mr. President I rise in opposition to the pending motion and in support of the bill and I must say at the outset that I am taking an opposite position from what I did in 1967 when I opposed the original rooms and meals tax and at that time I was in the business, I am not in it now before anybody asks me the question. I didn't oppose it because I was in the business because of the tax that it would levy on me personally because it was not a tax on the operator neither is this a tax on the resort people and the people in the rooms and meals business. I opposed it at that time because I felt that it was unfair for the people in that particular industry to be collecting a tax for the benefit of the state. However we do have that law on the books at the present time. The additional one percent is not going to create any additional imposition to them. All they have to do is use a figure of 6% rather than the present 5% figure. Basically this is a voluntary tax and reluctantly I support the increase of one percent. As I stated to the chairman in our committee that I would support this because I have to have an option if I am going to oppose one of the other taxes that will be coming before us, mainly the \$10.00 residence tax. That tax will be a compulsory tax, it will be levied against individuals who may be unemployed. However, they would have to pay it for themselves, their wives and their children if they are over 18. So this is the reason I very reluctantly support this tax and will oppose the residence tax.

Sen. HANCOCK: Senaor Trowbridge, has this money been earmarked for the employee pay raise?

Sen. TROWBRIDGE: Not specifically this particular item, but when you come down the line and you see that there is a \$12 million dollar package out there—when you take a look at the whole balancing structure obviously you cannot lose 6.5 million and still hold up a 12 million pay raise which we added on.

Sen. HANCOCK: What is the percentage of pay raise that you intend to recommend?

Sen. TROWBRIDGE: We are recommending 7% across the board.



Sen. HANCOCK: For the University and State employees?

Sen. TROWBRIDGE: Right, a one time shot. It goes up 7% in June and it will be the same for the biennium.

Sen. HANCOCK: And you feel that this is vital to that realization?

Sen. TROWBRIDGE: I feel it is absolutely vital. You take a look at this and we have a 4.8 million dollar balance that has to cover the other specials that we have not been able to actually segregate at this point so it won't be 4.8 million it will be something less than that. It has to cover any miscalculation in revenue which we have had before and which is very difficult and so what we are saying is that the package is the package. I can tell you right now, with the other things that we have had to do, there would be no place to go if you said to me cut the budget other than saying the first thing that goes is the pay raise, cause that is the only thing that is not built in.

Sen. HANCOCK: Thank you.

Sen. JACOBSON: Mr. President, I rise in opposition to the pending motion on the solid basis that we absolutely need the revenue. now I would like to comment on just two things. One is the question of the increased cost to persons coming in as tourists. I think one of the interesting things and it is being advertised all around the state that we don't have a sales tax. One of the things that tourists get in this state that they do not get in Vermont or in Maine, they do not have to pay a general sales tax. So that whatever increase is coming we in fact are giving them an additional benefit. The second thing that I would like to say is that unlike Senator Healy I'm not able to go out for dinner once a week. In fact if we go out once every two months that approaches a miracle except when Senator Bossie provides for me to go with him but other than that I rarely can go out for dinner. I think a lot of ordinary people cannot so the people of lesser income are not going to be profoundly affected. Furthermore, in reference to the slot machines, I was in Las Vegas recently and I was impressed about people going on vacation and they are spending money on slot machines as though it were going out of style, that is the money. So the extra few cents I think for people who are tourists it is not going to make a significant difference though I emphasize with the fact that it does increase the cost and it is maybe a slight problem to resort owners. But I think we have to bite the bullet and say in fact,

that we have to find those places that are in fact available to us to raise money and this is one of them.

Sen. TROWBRIDGE: One thing I didn't bring out and I don't think anybody brought out; you alluded to who actually pays the rooms and meals tax. Is it not true that the motel industry and the luncheon industry of restaurants are substantially supported by business deduction by people out on the business lunch and who travel through the state—businessmen being reimbursed for their expenses, isn't that not true?

Sen. JACOBSON: Yes the rooms and meals tax comes fundamentally from two sources, from the business lunch and dinner and from the tourist. Ultimately in the business lunch and dinner it ultimately comes back to all of us in the cost of operation and the ultimate price of the product.

Amendment adopted.

Sen. Fennelly moved that HB 582 be indefinitely postponed.

Sen. Bossie requested a roll call. Seconded by Sen. Downing.

The following Senators voted yea: Lamontagne, Poulsen, Smith, Gardner, Bradley, Healy, Provost, Bossie, Fennelly, Foley.

The following Senators voted nay: Bergeron, Jacobson, Saggiotes, Monier, Blaisdell, Trowbridge, Rock, Keeney, Hancock, Sanborn, Brown, Downing and Preston.

10 yeas 13 nays

Motion failed.

Ordered to third reading. Sen. Healy recorded in opposition.

HB 536, relating to the business profits tax rate, deductions and method of distribution. Ought to pass with amendment. Sen. Downing for the committee.

Sen. DOWNING: Unclear.

Sen. TROWBRIDGE: I think there are two things that it does; it raises the rate and it does the redistribution. I want to talk to redistribution. While it is highly desirable to have some redistribution in the budget we have made a move that takes care of some of the inequities. In the second year of the biennium we are proposing that the increase that would go to the cities and towns, 1.2 million dollars, their normal 5% increase will not go directly to the cities and towns but instead will go to fund the special fund for the education of the handicapped, will go directly to the school district. They are going to be hit hard in the next two years because the federal law comes into effect in 1978 so that anybody who walked into a school and says I'm handicapped has to be taken care of so we think that is a way to redistribute the business profits tax rather than this other formula which only takes population and equalized value but may have nothing to do with the impact of need of people who may have 20 times more handicapped children in one school district than you have in another. So we have already taken steps and for that reason I think this amendment should not be adopted. The second one is that we put in our calculations  $7\frac{3}{4}$  to 8%. The bill as it came from the House is at 8%. The amendment raises it to 9%. We have talked to industry, I am sure that industry has been around to the Senate Ways and Means Committee but we have gotten a pretty good signal out that the industry is not worried about going to 8% but they are worried about going to 9% and we have had a sort of a deal that they'll pay more of their way going from 7 to 8% but that we shouldn't just try and whack it to industry by going here from 7 to 9 which would mean another 9 million dollars on top of what they are already being asked for. So I am going to vote against this amendment. In our budget calculations we have only set it at 8% and the revenue therefrom. On this one, you are not throwing us off if you vote against the amendment. The filing period thing is important for two reasons: one it gets us 5 million in this biennium that we wouldn't have on an accounting sheet but even more important than that it means that the filing will be done in March instead of May. It moves it two months. Every year we have

the same problem in calculating revenue estimates it is that we don't have anything until May 9th and that is pretty late in the budget process. So it would be an enormous convenience in budgeting if the payment were moved up to March 31. It shouldn't be any problem and Lloyd Price has made it clear that he has the power and will exercise that power and I am saying it here for the record, got it? That he will exercise the power, if anybody has a cash flow problem of making the fifth payment that he will waive it, it will only be the smaller companies, it will not throw off the revenue from the big ones. So Senator Downing I thank you and I would at the appropriate time move to divide the question of the change of payment date from the other two parts of the amendment.

Sen. ROCK: Mr. President, I have to rise against this portion of the amendment that deals with increasing the business profits tax to 9%. I think the business community in this state is ready to do its share and I think the business community will accept, although none of us accept gleefully, increased taxes, a modest increase in the business profits tax. We may be doing here the old fairy tale of killing the goose that is laying the golden egg. We are seeing business profits tax increasing, we are seeing businesses move into the state. We heard Senator Gardner's excellent presentation this morning on Digital coming in and the 10 lane highway; 16 million dollars; but I cannot see the increase to 9%. Again hopefully we might have had the opportunity to tell you of the Senate Finance's laundry list here of possible increases and under the possible increases we did have six million, almost 7 million dollars in increased business profits tax plus the 5 million dollar lump that Senator Trowbridge has discussed. We have this to consider and this I think is most important and I hope you'll listen because we have heard other arguments about what other states are doing. Massachusetts is at 8% on their business profits tax and if we go to 9 we are going to do something I think we may not want to do. So I am ready to support as Senate Finance indicated they are ready to support an increase in the business profits tax, whether it is  $\frac{3}{4}$ 's of a % which would give us the 7 million or whether it is a full one percent which would go to 8 million; rather is immaterial. But I cannot support this kind of an increase at this time against the business community. I think it is too much of a burden all at once.

Sen. BLAISDELL: Mr. President, members of the Senate,



I have to agree with Senator Rock; I am willing to bite the bullet myself being a small businessman and tax my two sons another  $\frac{3}{4}$  or 1% but I cannot in all good conscience support 9% in the state of New Hampshire. I bit the bullet real hard the last time on the rooms and meals tax. That is one of the hardest things I had to decide today but I am responsible somewhat for some of the things that are in here. I have to have revenue to be able to take care of the things that I as I am called an old liberal, want to support but I cannot in good conscience support 9%. I will support  $7\frac{3}{4}$  or 8% on the business profits tax but not 9%.

Sen. FENNELLY: Thank you Mr. President. I rise in support of the amendment. I think we have something out of balance somewhere. We are willing to double the residency fees for the people of the state of New Hampshire; increase the rooms and meals tax; double the license fees on everybody from fishermen to dairy cows; do the whole bit. But when it comes to business—that sacred cow—is protected across the board. I think industry has done very well in this state in all categories. They have a good labor market, we don't have a broad based tax, people want to come up—so for many reasons—I think that industry has not really pulled the weight that the stock and trade went off and the business profits taxes come in. Now the support of the different taxes: we just gave Digital Corporation 16 million dollars and thought nothing of it; we really gave them 40 million with the bonding. But when it comes to business being taxed everybody gets nervous. Business isn't going to move out of state, they are going to stay right here and they should pay their fair share. Now here we are in the last few days—I think this 1% increase to 9% will give 4.5 million dollars more and if we approve it we will have probably a surplus and we won't have to worry about the state employees raises and so forth. It will be right in this 1% and I urge the committee, I urge the senate to support the committee's report.

Sen. BLAISDELL: Senator Fennelly you are saying that the business community doesn't pay it's fair share?

Sen. FENNELLY: Hasn't paid their fair share in a long time.

Sen. BLAISDELL: Would you be surprised to know that I also came under the machinery tax or whatever you want to call it, the stock and trade tax, and that I pay more taxes

today in my little small store than I did when I got under the stock and trade?

Sen. FENNELLY: I didn't know that.

Sen. BLAISDELL: Do you believe me?

Sen. FENNELLY: I believe you Senator Blaisdell, I always believe you.

Sen. BLAISDELL: Is there in the budget anything there that concerns the town of Durham?

Sen. FENNELLY: Oh are you talking about the University?

Sen. BLAISDELL: Yes I am.

Sen. FENNELLY: I heard the different rumors that "Senator Fennelly if you don't get these bills out of committee we are going to cut 5.4 million dollars from the Universities budget." Well if that's the type of legislation, the pressure, that has to be put on a Senator from that district I think it is terrible.

Sen. BLAISDELL: Senator Fennelly did I say that to you?

Sen. FENNELLY: No you did not but people have called me about certain revenue bills in the Ways and Means Committee. I'll vote on the issues and not from any pressure from anybody—the University of members of this Senate.

Sen. BLAISDELL: You're not talking to Senator Healy now you're talking to me.

Sen. FENNELLY: That's correct.

Sen. BLAISDELL: You don't have to yell at me Senator. Can I ask a couple of more questions?

Sen. FENNELLY: Yes.

Sen. BLAISDELL: I asked you Senator, do you feel that there is anything in here that might help the children in the State of New Hampshire or the students of the University of New Hampshire? I didn't say that you represented that area but is there anything in that budget that will help your area?

Sen. FENNELLY: With the proposed amendment we could put something in the budget that would get 4.5 million dollars. Yes, there is everything there to help the people of the state but can we raise the revenue? Where do we raise it? You're standing here and I'm standing here and two years we will come back and we'll say, well, they can stand another 1% on the meals and rooms but don't touch industry. That's exactly what I am saying Senator and that's going to happen. There is too much pressure out there that I see of industry protecting their own vital interests—I have no

qualms about that. What I do have the qualms about—you're talking about the  $\frac{3}{4}$  or  $\frac{1}{2}$  percent and maybe one percent increase—but not two for some unknown reason. The biggest value to the state is industry and they should be taxed in my opinion.

Sen. BLAISDELL: Would you believe Senator, a couple three years ago my two sons and I bought a building and put our little sporting goods store in and we started with, 3,600 hundred dollars a year for taxes? It has gone to \$4,700 a year and this year it went to \$5,600. How much more can the small businessman stand in the state of New Hampshire? They'll be no taxes from my store pretty soon because I will be out of business if you raise this thing up to 9%. Pretty close, it is getting that close in my business just the same as it is up in the north country with the small rooms and meals tax increase.

Sen. FENNELLY: Well I'm sorry to hear your situation Senator Blaisdell but I think large corporations to a great degree can afford to meet those taxes. I think they pay too much attention to their stockholders and pay out too much dividends and they should be taxed and I hope that my land tax goes through as the bill is submitted. It will take care of all the problems because it will raise 34 million dollars a year; 16 million to towns and cities and 16 million to the state.

Sen. PRESTON: Mr. President after this one I guess I will be in trouble with all my constituents because we have doubled the fees for my lobstermen and fishermen, we have increased the liquor license fees, the soda pop they are selling maybe we will have to charge more down there. I represent a lot of small business people, hundreds of hotels, motels and restaurants. I operate a small restaurant and I am in the real estate business and collect the rooms and meals tax and representing small businessmen I must speak against the 9%. I can see that these people will already be affected by at least 4 of the taxes that we have spoken about plus the increased license fees that have already gone on so I think in fairness to the small businessman, I don't represent any of the big industrialists that I think the 9% is too much of a jump. 8% would be fair and they would be willing to assume it.

Sen. ROCK: Senator, just so I am clear in my mind, I heard you tell me the other day that you were for the medical

malpractice bill and I saw you proceed to support every amendment that would have gutted it and I am a little confused as to what your stand was that day. Especially after I heard your series of votes on the amendments. Are you for a modest increase that the businessmen might be able to survive with  $\frac{3}{4}$  of 1% but you are against 2%?

Sen. FENNELLY: Do you want me to respond to the malpractice thing first?

Sen. ROCK: Yes I would like to have that one explained because you said you were for the bill and I never did understand that?

Sen. FENNELLY: Well I was for the malpractice bill with a few minor changes Senator. My conscience told me that at least one point it was unconstitutional and I just didn't want you to err in your vote that day.

Sen. ROCK: I didn't Senator.

Sen. FENNELLY: On the modest increase I would be willing to see that. I would be willing to see it go to 8% out of fairness to the small business people in the area who are already going to take on some of these additional taxes or pass them on to their customers. I think the 9% would be too high.

Sen. ROCK: And you have referred to some of the other taxes that have been criticized here by Senator Fennelly as hitting people the wrong way. We are hitting in dollars and cents the business of this state with the bump of 5 million and a 1% to 7, probably  $7\frac{1}{2}$  million, harder than we are hitting anybody else on the laundry list, isn't that true?

Sen. FENNELLY: Correct. And Senator I would like to vote against all these taxes but I think that the priorities that were spelled out by others, the state pay raises and whatnot, though I fear I might get into trouble with various segments of industry or business or the people—I am betwixt between and I have to face up to the responsibility of appropriating the money, and that is the position I am in—I am going to vote that way.

Sen. ROCK: Do you feel now Senator that you might have understood a little better what we were going to tell you about in the ways in which we were going to help the needy and the handicapped children if we could have explained that in the beginning when you voted against letting the budget be introduced first?

Sen. FENNELLY: Senator, I thought if you had listened



to reason, I would have listened to your budget if you were willing to table it but I thought you were very obstinate over in that corner of the room by not at least hearing this; I would have liked to have heard the budget first, tabled it, heard this segment of the discussion. Cause it is nice to budget but it is nice to know where your sources of revenue are coming from. I thought that would have been a more reasonable approach.

Sen. ROCK: Did you get up senator and say that you would like to hear the budget and that you would like to move to table it?

Sen. FENNELLY: Senator Downing suggested that I believe.

Sen. Downing moved to divide the question.

Adopted.

Question of Sections 1-4.

Sen. Trowbridge requested a roll call. Seconded by Sen. Lamontagne.

The following Senators voted yea: Keeney, Fennelly, Downing, Foley.

The following Senators voted nay: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Jacobson, Saggiotes, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Hancock, Healy, Sanborn, Provost, Brown, Bossie, Preston.

4 yeas 20 nays

Sections 1-4 of the amendment, fail.

Question of sections 5-7.

#### Amendment to HB 536

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Time for Returns. Amend RSA 77-A:6, I as inserted by 1970, 5:1 as amended by striking out said paragraph and inserting in place thereof the following:

1. Every business organization having gross business income in excess of \$6,000 as defined by RSA 77-A:1, VI, during the taxable period, shall on or before the fifteenth day of

the third month following expiration of its taxable period, make a return to the commissioner under such regulations and in such form or manner as the commissioner may prescribe. Returns shall contain full data as to all matters required by the commissioner for correct computation of taxable business profits and the tax assessed thereon. All returns shall be signed by the taxpayer or by its authorized representative, subject to the pains and penalties of perjury.

4 Receipt of Returns. Amend RSA 77-A:6, IV as inserted by 1973, 579:5 by striking out in line 3 of the word "fifteenth" and inserting in place thereof the following (thirtieth) so that said paragraph as amended shall read as follows:

IV. Any return or declaration shall be deemed to be timely filed and the payment due therewith timely made, if received in the office of the business profits tax division on or before the thirtieth day of the month in which the original statutory due date or approved extended due date falls.

5 Effective Date. This act shall take effect July 1, 1977.

Sen. TROWBRIDGE: I fully agree with dividing the question. I am going to vote for the part that is the effective date and the moving up of the payment date, 5-7, I am going to vote against the first part of the 1-4.

Sen. MONIER: Mr. President, I think it would have been nice if we had had the division before we had all of the discussion. I think I understand the division. I have to rise in opposition to the 9% and I assume would also be the distribution because of the connections between the two. Two or three reasons—and they are just very quickly, one of them is that I think that the atmosphere of industry, employment, unemployment, welfare, etc. in the state of New Hampshire has been kind of a shining light in the northeastern United States. I think some of this has been as a result of our low business profits tax which has encouraged both industry and in turns encourages some work ethic and therefore less unemployment. This has been written up, argued and debated depending upon which newspaper you read. But the truth of the matter is if we start raising this to 9% we are going to in a sense, I am reminded of the old parable between the killing the goose that laid the golden egg—I am not even sure at this point that I will accept an increase of 1% but at least I know, I can't accept 2%. As to the second portion of it, I will have to look at it now that we have divided the question. I asked

to speak before we did but I am definitely against this increase to 9% on the business profits tax.

Sen. TROWBRIDGE: One other thing that I think should be brought out for the record. I know a lot of people opposed the business profits tax when it came in and I was the technical sponsor of the business profits tax when it came in under Governor Peterson and I know the opposition that came and yet when the smoke has cleared, now everybody is all for the business profits tax. One reason that they should be for it is one, you only pay it if you make money so it is not a flat thing that comes on to an unprofitable industry; it is only for a profitable industry and second, for most profitable industries in this state there is an offset in your federal tax so that 48% of our 1% increase here is being absorbed by the federal government. So an effective dollars back to a corporation ready for dividends or what other things they do with their profits, you are really only taking 48 cents on a dollar and that I think is very important to keep in mind that under the federal tax law this works very well for New Hampshire business. It keeps the money here.

Sen. MONIER: Senator, since we have divided the question, would you just take a minute for me and tell me what the sections 5, 6 and 7, which you said you are going to be for, I'd like to know what will happen if we kill the first part; I thought they were tied together.

Sen. TROWBRIDGE: No they are not. That's why the motion before us is to divide the question. Once we have had that then we would take up the two parts. We still have to pass the motion and divide the question. Am I not correct? And what I am saying is that the second part of the division is the part which says that everybody on certain calendar years will move up two months in their schedule of payments so that a great many businesses will have to make five business profits tax payments in the next year instead of four, the regular quarterly. But for the larger corporations, the business profits tax is not that big a deal on their cash flow and they can make it like prepaying their taxes; that is all there is too it. To the smaller corporation, you might say gee I can't come up with the money, Lloyd Price has made it very clear to the Senate Finance committee that he is not going to take that out of their hides; he will work it off so they get it in. But long term it means that we will get getting our money quicker. We did this same routine on the insurance tax two

years ago. It made no difference to the insurance companies and picked us up something like 4 million dollars on that one. So it is not unheard of, it was the governor's recommendation, and it was one of the governor's recommendation that we accept it.

Sen. MONIER: May I just follow with one of the questions that we should have asked in the first place. On the laundry list that we haven't looked at yet there is a section in there that would change their payment dates to coincide with federal, corporate tax payments. By passing this second part we would not affect that, would we not?

Sen. TROWBRIDGE: We have to pass that to get it. It is very important, it is 5 million dollars.

Sections 5-7 adopted. Ordered to third reading.

HB 556, authorizing certain stores to sell table wine. Interim study by the senate ways and means committee. Sen. Downing for the committee.

Sen. DOWNING: Mr. President, this is another one of those bills as you can see. This is a bill that causes a departure from state policy. It is going to put wines into private stores now and is also going to be in the state stores. Price is going to be dictated by the liquor commission. The revenue figures were very questionable. The ways and means committee felt that if we had some time to work with the bill itself we could probably bring in something more comprehensive, more significant, and more meaningful than what was handed to us. The time frame that we had to work in wasn't adequate. It was recommended for interim study.

Sen. SMITH: Mr. President, if this motion is defeated I intend to introduce an amendment which has been distributed I believe to everybody here. It is the one that is thick and smells bad. That is the paper that smells bad—the amendment doesn't. What this amendment is allow for the sale of table wines up to 14% in the grocery stores of the state. The same way that beer is presently sold. Now I have introduced this amendment before the Ways and Means committee. They did not see fit to adopt it. However we have had this subject before the Senate for many many years and I think that this amendment if adopted could be sent to Senate Finance for further discussion as to revenue estimates.



We have in the past estimated that these revenues would amount to approximately 2 million dollars in the first year and about 1 million dollars a year thereafter. The two million is in filling the lines of distribution and would be from that point on, it would be continuing to fill those lines of distribution. This puts wine into the hands of private industry, gives it incentive, gives more choice and I am concerned, deeply concerned to have it if it continued, in the liquor commission because then you would be building warehouses, you would be building staff to sell wines whereas this way, private industry would take over. And I hope that the Senate will go along with the amendment.

Sen. LAMONTAGNE: Senator did I hear you correctly when you said that beer would be sold in the same manner, are you inferring that the wine would be sold by the middleman?

Sen. SMITH: That is correct.

Sen. LAMONTAGNE: Senator, I am sure you being on Senate Finance that the liquor commission has already appeared before the finance committee?

Sen. SMITH: No this is not a finance bill, they have not been into finance on this bill. As a matter of fact they opposed the amendment in the Ways and Means committee.

Sen. LAMONTAGNE: Senator will you be very careful in listening to what I am asking you, I am asking you if the finance Committee has already appeared for their budget for the next fiscal year?

Sen. SMITH: That's correct.

Sen. LAMONTAGNE: What's going to happen to the Liquor Commission's figures?

Sen. SMITH: They will be continued to be sold where they are sold presently but you can purchase them through private distributors rather than solely through the liquor commission. By having this I am convinced that the revenues to the state would increase, I think it would be good if this amendment was adopted and it was sent to Finance Committee for further evaluation.

Sen. LAMONTAGNE: Senator, what happened to these people who have been lobbying for wines in grocery stores

with the understanding that it would be purchased through the liquor commission? Whatever happened to that?

Sen. SMITH: That was another section of this bill, of the original bill. This amendment superseded that.

Sen. BRADLEY: Senator Smith, I like your idea and I do support having wine in the liquor store and having these people distribute it. Can you tell me in your bill, what good it does for the state of New Hampshire to have this section in here that says that the liquor store, once we adopt this, are prohibited from selling wine. What is in that for the state of New Hampshire?

Sen. SMITH: What is in it for the state of New Hampshire is the fact that I think probably without the prohibition you would have little incentive for grocery stores to compete with the distribution of wines with the liquor commission and this would—if you had a grocery store and you were next door to a state liquor store and they were getting their, paying rent at a dollar a square foot compared to your four dollars and you were paying taxes and they are not, the competition becomes a little extreme. I think by having it out of the liquor stores also means that you do not have to in the future bill more warehousing, that can you can take on additional brands of liquor in the liquor stores and of your stronger wines.

Sen. BRADLEY: Allowing the liquor stores to continue to sell wine, is not going to involve them having to build warehouses, is it?

Sen. SMITH: Well, they are in every session wanting more warehouse space and I believe you will find a request in the capital budget for more warehousing space and more handling through that source. Plus liquors are a higher profit margin than are the wines.

Sen. LAMONTAGNE: Senator could you explain to us now, what is going to happen now if there is going to be wine being distributed by the middle man and by the liquor commission?

Sen. SMITH: They wouldn't be Senator, because this would involve the grocery stores only.

Sen. LAMONTAGNE: But you just told me a minute ago that wine can be purchased through the liquor store.

Sen. SMITH: Heavier wines would be but not the lighter ones.

Sen. LAMONTAGNE: Then in other words, how will wine get into the liquor stores?

Sen. SMITH: Very carefully.

Sen. LAMONTAGNE: Now if the grocery stores are going to have wines, the liquor commission is going to order a sale on wine. Now what is going to happen between the liquor commission and the store people? Will they be able to do this?

Sen. SMITH: This will be distributed like beer, it will not be in the liquor stores except for the heavier wines in which the grocery stores would not handle.

Sen. TROWBRIDGE: While we are discussing this bill. There is a third option which no one is discussing. I think Senator Lamontagne this may be the answer to your question. Number one, the committee report is simply that we do nothing, send it to interim study. If you turn down that report then Senator Smith will offer his amendment. If you do not like his amendment because it puts it into the problems that Senator Lamontagne has presented, you still have the adoption of passing the bill. Now passing the bill is in our list of goodies, it is a vital part of our list of goodies and it is the one which the liquor commission controls the sale of wine even in the grocery stores. That is another petition that is getting lost in this discussion. So on either event, I would hope, if you are serious about the budget that you will turn down the committee report either vote in Senator Smith's amendment or the bill, depending on how you feel. But do something.

Sen. ROCK: I rise in opposition to the committee recommendation of interim study for two reasons. I think that we should make our decision on this issue this year whatever the decision is. This has been kicking around for session after session. We keep dodging the issue. The second reason that I am against the committee report of interim study and supporting Senator Smith's amendment, I have had some personal first hand observations of how the wine in the groceries stores operate. from its very inception I have watched it very closely in our neighboring state of Maine. It wasn't that many years back that this bill was introduced in Maine and it is introduced under the same concept and that is distributed by the wholesalers in the stores in Maine as is proposed in Senator Smith's amendment. Frankly, for the smaller stores it is working very well. I used the example in the committee

hearing where I appeared in favor of this amendment of the little store called Freeman's Market in York, Maine. Freeman's Market is a very small store, you could fit the whole store in the press corner over there. They do a whopping business in the summertime and they don't do that much business in the wintertime. But they have set aside a little corner of the store now and they have a few choice wines in there and people go in and buy the wine and the state of Maine is making some good money on this. They said in Maine that it would never last, that it was just a flash in the pan and once the pipeline was filled the revenues would go down immediately. That is not true. It has been substantiated that not only is there revenue increasing but it has become a very reliable source of revenue year after year. Now one of the reasons that I am against the main bill and why I can't support that and why I can support the Smith amendment is that I see in the original bill a concept that I have been very much opposed to over the years; that is the multiple licensing. I think that the limitation on beer licenses that have been in this state has worked well and I am scared to death that you are going to see a giant like Cumberland Farms come into this state. They now have 52 outlets, 52 Citgo stations that they bought and if you pass the original legislation, you can bet your bottom dollar that Cumberland Farms is going to have 52 wine stores in the state and there is competition for the liquor commission. They are going to have more stores than the liquor commission is going to have. I don't want to see Cumberland Farms control this state; I don't want to see A & P or Stop and Shop or anybody else controlling the state. I think the limitation on two licenses prevents that, it gives our Mom and Pop stores a chance to operate and I support the concept that the beer wholesalers can and will handle this without the overhead that the liquor commission says they are going to need. 340, 300 hundred thousand dollars, the trucking costs that are going to be incurred by the small owners. That they are going to have to come to Concord to get their wine and the ride back home again would be eliminated if you go with the Smith amendment. I just conclude by saying that usually the chore of going to the liquor store falls on me in my household because my wife would no more go to a liquor store than she would cross the turnpike at the height of the rush hour. The cupboard can be bare and it can stay that way unless I go.



But I think that she would stop at a grocery store and pick up a bottle of table wine for supper. I think that is where some of your increased revenue is going to come and I would like to see this bill in some form sent to Senate Finance so we could come back with the answers.

Sen. DOWNING: The liquor commission is opposed very strongly to this bill.

Sen. ROCK: I think I would answer the part about them being opposed to it in previous years, looking at it through the same light that I saw members of the PUC, commissioners themselves coming in and opposing a bill which would restructure the commission. Now they get that power; they get that control and they got ahold of the thing and they don't want to let it go. Part of the problem with the state government bureaucracies is that they are not willing to make changes and upgrade to meet modern times. Now maybe they have seen part of the light but you notice they still don't want to let go, they still want to hold on tight, they still want to cost extra money to the state to distribute it; they still want all the overhead in there because they want the power in the liquor commission to say, look it we got it, and I say they still will have enough control just like they do over the beer wholesalers but I am pleased to see that they are waking up at least a little bit. Maybe we can wake them up all the way.

Sen. BRADLEY: I don't mind going to the liquor store to buy my liquor where I often also buy a bottle of wine. Why should I the consumer be deprived of my ability to buy wine in the liquor store where I do my shopping?

Sen. ROCK: I think you asked me that same question at the hearing Senator and haven't thought about it for a week or so since you asked me the first time, I really have some difficulty with that one myself and I would guess the answer would come on the heels of Senator Smith's remarks that if the liquor stores of the state of New Hampshire have the product are they then going to be in competition with our grocery stores because you will notice that the liquor stores don't have beer. Where your package stores in Massachusetts have both. I think what you would have is a situation where the competition might make it very less enticing for the grocery store to stock it if the liquor store down the street is going to undercut them in price. But I do think that is a very good question and is one that should be looked at as

can there be a melding of these two. Can you have it in the liquor store which you now have it and could you also have it in the grocery store and have everybody get along with some kind of a pricing structure. I think that is something that senate finance should definitely consider.

Sen. JACOBSON: Mr. President, I rise in support of the committee report. I do it for a reason that has not been mentioned at all and that is back in 1934 we started this kind of liquor commission institution where the control of alcoholic beverages—it has worked well. Those states such as New York and Massachusetts have great difficulty with these kinds of open systems and I think if we grant it at the present time to the wine industry the next step will be the pressure to grant it for the hard liquor. I think that this whole question ought to be very carefully studied before we open the door. I don't know of a single constituent that has any trouble getting his wine or his proofs. Once we open the door we are going to have a totally new kind of pressure system. I think we ought to understand and realize what the impact will be. I realize that there is a lot of push for potential extra revenue and there is a lot of push by the beer distributors in the hope that they can get extra profit and revenue but I think we ought to go to the fundamental question whether or not we want to start opening the door and reducing a system in terms of the distribution of alcoholic beverages that has worked very well. I do not know and I have not heard from a single person in my district that they have difficulty getting what they want in terms of alcoholic beverages. So I strongly support the committee report.

Sen. HEALY: Senator Smith, under your amendment you have something like free enterprise operation of handling wine for the stores on Sunday right? You would be adding a new line of lines perhaps?

Sen. SMITH: Very possibly there would be other lines coming in and more selections.

Sen. HEALY: Let us assume that I go to a restaurant and the third Saturday of the month and in the line up we might possibly have a drink of wine. Would it be in conflict to have a different variety of wines some that the liquor commission does not handle although free enterprise does?

Sen. SMITH: I don't see any conflict Senator in having a broader choice of wine.

Sen. HEALY: Cannot the liquor commission come in with a broader choice of wines?

Sen. SMITH: They could.

Sen. HEALY: Then what is the objection to having the liquor commission keep its finger, to keep control on the liquor?

Sen. SMITH: They would still have control through licensing and what it would do is allow further distribution.

Sen. HEALY: Would it have control through prices and so forth?

Sen. SMITH: No.

Sen. HEALY: In other words this plan of yours does conflict somewhat with the liquor commission?

Sen. SMITH: Yes it does.

Sen. Foley moved the previous question.

Adopted.

Sen. Lamontagne requested a roll call. Seconded by Sen. Gardner.

The following Senators voted yea: Lamontagne, Poulsen, Gardner, Bradley, Bergeron, Jacobson, Saggiotes, Monier, Keeney, Healy, Provost, Brown, Bossie, Fennelly, Downing, Preston.

The following Senators voted nay: Trowbridge, Smith, Blaisdell, Rock, Hancock, Foley.

16 yeas    6 nays

Adopted.

Sen. Lamontagne spoke under rule No. 44.

### SUSPENSION OF RULES

Sen. Downing moved that the rules of the Senate be so far suspended as to allow all bills be placed on third reading and final passage and that all titles be the same as adopted and that they be passed at the present time.

Adopted.

## Third Reading and Final Passage

SB 371, to repeal charters of certain corporations.

HB 799, including divorce among the events that are reportable to the registrar of vital statistics.

HB 803, relative to insuring the proper disclosure of information from vital records.

HB 686, relative to the duties of persons involved with vital statistics.

HB 850, relative to the payment of school district moneys on orders of the duly authorized representatives of the school board and relative to the payment of tuition charges in lieu of taxes.

HB 764, amending the penalty for operating a motor vehicle in violation of size, height or weight restrictions.

HB 457, redefining the term "motor truck" in the motor vehicle laws.

HB 590, relative to a return transfer of funds from the division of welfare to the division of mental health.

HB 1126, relative to the New Hampshire retirement system and the state employees' retirement system of New Hampshire.

HB 460, amending the formula for computing the elderly and expanded elderly real estate tax exemptions and providing additional notice of available tax relief.

HB 616, increasing certain fees charged by state agencies.

HB 579, amending the interest and dividends tax relative to the rate, method of distribution, and number of exemptions for the elderly or blind.

HB 582, providing for additional state revenue.

HB 536, relating to the business profits tax rate, deductions and method of distribution.

Adopted.

## SUSPENSION OF RULES

Sen. Jacobson moved that the rules of the Senate be so far suspended as to allow that the Calendar for June 13 be taken up at the present time.



Adopted.

HB 1000, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 1978 and June 30, 1979. Ought to pass with amendment. Sen. Trowbridge for the committee.

Sen. TROWBRIDGE: Mr. President, this is the budget bill that we have been referring to all day and in front of you you will see the committee amendment, that is the new one. You will also have a sheet that shows the balance sheet portion of our reckoning. In looking through that you will have great difficulty seeing what we did so that I'll have to tell you, otherwise they are just figures and they are very difficult to follow. I have always thought it appropriate that we do the budget in June which is the month of weddings traditionally and if you were characterizing this budget you would use the old phrase something old, something new, something borrowed, something blue. Because that is just about the size of this budget. What is old is that we are doing very little new in the budget. There are no new programs, no new fundings. We are telling essentially with the services of the state that were in place last session. There are no new departments, there are no new big additions to anything and when I spoke on February 10th I said we are going to need 51 million extra to do that and on your balance sheet there you see we would be raising some 55 million dollars with the bills that we have been putting through and the bills that are yet to come. So we weren't far off on that estimate but through the House and Senate we have been raising revenue with selected taxes that are essentially enough to get to what we consider to be a reasonable level of spending. Now the first thing we did on the budget is we took the governor's recommendations that he made to us in his meeting with Senate Finance and we went through them and it is interesting to note that of the recommendations that he made over half were for increases and the other half were for decreases. Now we took some of his increases and some of his decreases so that we did not in any way reject out of hand anything that he had done. He for instance, he was saying that we should put back in the com-

mission on the status of women and we should take out the human rights commission. His reasoning was on the one, well if you really have to do it just don't do it by the budget; repeal the status of women. Well we felt what was good for the goose was good for the gander that human rights commission couldn't go out just by a budgetary notation either. So we put back in the commission on the status of women and kept the human rights commission. A lot of the things were rather small, boat rentals, safety division etc. One of the big things that he had was that he wanted us to cut all the funds that we have been spending, or the extra funds that the house put in for aid to the local school districts for the handicapped children. We restored some of that. However in the water pollution commission area, we did adopt his suggestion of borrowing from the prefinancing fund to the point where there is nothing left in the prefinancing fund. That picked him up 1.3 million dollars in general funds this year. It only means next year you won't have it to go against." We did borrow that money; I had a hard time arguing against it because I was the originator of it two years ago. We adopted many of his suggestions on New Hampshire Hospital because it turned out in testimony that those were alright at this time. So we made a considered effort to take up the governor's recommendations and deal with them on a one-by-one basis. We also took up his suggestion that we pass an unclassified pay bill with the proper categories that were worked out with the fiscal committee and the governor's council last November and we have essentially adopted that scheme with a couple of changes that were recommended by Jim Hayes and others of the council and that is in your bill and that is going to cost you about \$500,000 but it is well worth it because it now gives some ranges to these jobs, the deputies are one step below the commissioners, everybody is in place, it has been circulating around for at least six months and we have had only three people complain and two of those we took care of so that that seems to be a very worthwhile thing to do. That is in the back of the budget bill. A couple of overriding interest that we had was that everyone was asking for cars again because we have this rule that you go to 60 or 70,000 or 4 years old and then you have to trade in. We think that in the next two years, that is the end of the next biennium that there is going to be another generation of automobiles that are going to be more fuel effi-

cient and better all around. We felt this was a good time to skip the buying of cars so we put in extra money in various budgets to pay for repairs and 2) we are putting reserve funds in the back of the budget of \$350,000 to which a department head can come and bid in saying look this car is absolutely shot. If they approve at purchase and property there is \$350,000 there in a reserve fund for them to bid against and that is a lot. That is about 1,000 cars for the whole state instead of having everyone having their own and turning them over just because the rule says to turn them over. Some are okay and some are not. We also put in \$350,000 reserve for food and fuel so that we do not get into these crazy situations where the prison is running out of food and you have to have a special bill and everything else to go through. There ought to be a way for state government to handle its affairs without having to have no reserve fund, no way to meet the needs. That has been put in as well. Another overriding decision we made was the House had taken the position that the state police, the communications section and the detective bureau were all 95% funded by the highway fund. They had gotten release from the supreme court ruling. The supreme court ruling only said you can charge the highway fund that which is proper to charge for the highway fund. That is all it says. We took an analysis with the department of safety and went with the highway department and decided that 100% of the communications deals with highways; state police 90/10%; and for the detective bureau only 40% would go on the highway fund. You could not justify any more than 40% than being highway related. So that move lost us 1.2 million but it is right. It is the correct accounting amount for the various divisions. We thought it was much better and the triple A said they would sue; we weren't worried so much about that, we are more concerned about accounting the proper way for the dollars. Another rather big move that we made was the bureau profits tax in the second year. As I mentioned to you that was to go up 1.2 million more in the second year. We thought that the governor had cut or had proposed the cut of these aids to local school districts for handicapped children. We had gone along with them a little bit cutting them from 1.7 million a year to a million a year. Then we thought back on it a little and we said we don't really think that is right. How about taking 600,000 a year and recycling it into that program so that it does go to the local school districts rather

than just going out to a town that has no need. We think that is a very strong proposal and we hope that you will endorse it. That is a better use of the money. In marching through the budget, I had it broken out in sections because that is the way that it came to me. I don't think you really have to follow it. I'll give you the highlights of things that we have done and I think that you will see that some of them are interesting. Of course in the first part of the budget is the legislature's own budget and that is always a subject of some review. In the joint expenses we had \$200,000 put in for a special session. We thought it only appropriate that the Minority Leader of the House also have this special fund for \$350,000 in some proportion to their relative strength in the legislature. That will be the subject of some controversy I am sure far above its monetary value. We had to add more money for more auditors in the LBA. In adding money for the auditors you should notice that these are audits that we do in state government, LBA does that are reimbursable by the federal government because they are also doing the federal audit. It is not a money-making proposition but a wash proposition. We eliminated the disaster office. We thought that was sort of a bad nomenclature anyhow. We feel we already have a disaster office in the form of civil defense and that saved us \$194,000. In some of these things we gave what we called a signal. These are things that may or may not survive a committee of conference. For instance, the Bureau of Outdoor Recreation, and the Office of Comprehensive Planning. We put that specifically in last time in order to insure that the BOR plan would be done on time. It was not done on time irregardless. So our theory was well if it doesn't accomplish anything we are going to take it all out. And that we did. And that saved \$200,000. That may have to be reworked. It is a signal to that office that they are not doing their job. Another very interesting item in their budget was the proposal that we got from the executive council instead of paying \$45.00 per day per diem for everytime they go and ribbon-cut that they should be on salary. That the executive council should be on salary plus their expenses. Their reasonable telephone and travel expense. So we have proposed a \$2500 a year salary to the executive council and some of the savings that we made from that we put into a contingency fund which the council can disperse two things like the team going to the little league world series somewhere or that kind of proposal that is al-



ways coming up to the band here or there. That kind of contingency. We took some of the savings that we made on that and put it into the contingency fund. There are a lot of adjustments in the centralized data processing since the first of June we have had a great many discussions about CDP and in the back of the budget you will find a section that suspends the law setting up CDP for the next two years. There is no question at the present time that centralized data processing is in deep trouble. No reflection on Mr. Nelson. Frankly no reflection on anyone other than the way it has been set up. It is simply is that there is no means for decision in that area. The commission is not supposed to make decisions; the commissioner is not supposed to make decisions, the department heads are not constrained in what they ask for and as a result the users are now not being able to get what they need. And so we need. And so we are going to take extraordinary measures in the next two years to release those budgets so they can be moved around hopefully decentralized data processing so that safety goes with highway, the Honeywell computer is used basically for the welfare group and we buy another computer for the other areas. That is how it will probably work out. We'll dedicate some machines to certain jobs, you can move personnel into a department so that welfare will have the same program all the time instead of having it revolve and always change. We think that is the only way that the governor, the controller, myself, the users are all in line on this. I think it is our only way out over the next two years. Coastal zone management—we also eliminated some funds there because they are in the other bill and there is no point carrying them twice. That was what essentially got me up to page 33. From page 33 to 83—in here you will find the freeze on the business profits tax and the moveover into aid to the handicapped in the school district. We made a decision, whether it is right or not, I don't know, that the Fish and Game fund has been supported with \$60,000 of general fund to do search and rescue. Again, this is one of these things where we wanted to send a signal out to the committee of conference and to the house saying we are not sure at all that that 60,000 dollars is well spent in the use of search and rescue. Either the Fish and Game fund is going to raise enough money to do search and rescue itself because it is basically in that business or we ought to reexamine who is going to do search and rescue. So we took out the \$60,000. I

am not sure that that will stay that way for the whole process but I think it is a worthy thing to send some signals out. This is the only way that we know how to do it. On other hand, we felt very strongly that we should add an additional justice to the associate justice to the superior court. The house would put one in, we are putting in an extra one. They wanted three, we are giving them two. We feel very strongly that that is needed. You will getting some calls here from the National Guard saying why can't I get paid for my work at Seabrook. In the budget is \$175,000 of that payment. We can't make it move any faster than the budget moves. If the governor or somebody else wants to go out front, pass a special bill and do that, fine and dandy. But we were asked to put it in the budget, and there it is. We also did a little sunsetting in this area. These were aids to towns that have been carried since 1940, 1948, 1957, where a dam came in, a dam was built and you had the water impoundment and there was a lost revenue to the town for the land that was under the dam. I participated in some of this, the Hopkinton dam, it was a pretty old dam. But every year that has been carried forward in the budget, no one has ever questioned it at all. We are questioning whether there isn't a point where you cut off and say we don't owe back property taxes to towns that have already adjusted. So we took out those funds. In the fairs program and agriculture, we restored part of the fairs program, all of the regular operating expense but the improvement program we still cut \$25,000 from what the house had had. Now here comes another one where we did some sunsetting. We looked at several things at the department of agriculture to say, is it really worth it. We have \$300,000 a biennium that goes into meat inspection. We never have funded it enough to have a really true meat inspection program. There is a federal meat inspection program and so for purposes of discussion we sunsetted the whole darn thing picking up \$300,000. We really don't think, because there are a lot of agencies like that, where you have an executive director and two inspectors and cars and a secretary and a clerk and they add up to \$145,000 per year and you really can't find much that they do and it is about time that we took a look at it. Now we think that one is—unless you are going to do a lot more with meat inspection, you are really doing nothing. It is a waste of money. Same thing with the feeds inspection program. One employee groveling around looking

for feeds. There are enough standards on feed and grain in the federal government and just a general consumer area to protect people and all the buyers who really buy seeds, feeds, know their stuff anyhow and don't need inspection. That is \$40,000 per year that has been going on and going on. We decided to get rid of it. The other thing that we did in agriculture which I am sure infuriated Howard Townsend but I think is dead right—we removed the Eastern States Exhibition from his jurisdiction and put it in DRED. I don't know how many of you have been down to see the Eastern States Exposition and the New Hampshire thing, but it hasn't changed since 1950. The reason I know this is that Yankee used to have a booth at the Eastern States and I went there all the time and we changed our booth and I would go over and I would see the same thing from New Hampshire. In DRED they have the graphics arts group. They have some people who would do something with that. It is an economic development thing and a lot of the people who go through Eastern States have nothing to do with agriculture they are just there because it is a fun thing to do. Show a lot of things other than wood products—they show a general idea of what the state of New Hampshire is all about. So we have moved that into DRED on purpose and knowing what we were doing and knowing that we would make somebody mad but that is not the important thing. The PUC general counsel has been taken out because we have gotten assurance from the attorney general that he will put a person on full time in the Attorney General's office to handle the PUC. In that way it won't be a toady type of person who reports to the chairman and says, yes, you can do anything you want. It will be somebody out of the AG's office with some real class. Rather than giving the attorney general a great deal of money for new, permanent positions, we decided that with the litigation that he has described is coming on the scene; things like the commuter income tax a few others I can't remember them all, we have to watch for this, we put in \$50,000 for him to hire outside counsel for those kinds of litigation because it turns out that 7 out of 10 times he hires outside counsel anyhow, because it is beyond the House. So that is what we have done there. We put back the status of women, the horseracing commission and the dogracing commission. We made those two executive directors, we made them unclassified so they will have a term of office, a reappointment and some

responsiveness to the commission whom they serve and have had no particular kickback on that. In the insurance department we definitely put in new employees but this is mandated by the fact that we have several big new companies coming to New Hampshire. Most of whom have to be audited in New York. One is the Home Insurance Company. It is a very expensive process—auditing them in New York city but they are becoming domiciliary companies they and Continental are coming to New Hampshire and they have to be under our domiciliary audit. But it is out-of-state kind of work and it is expensive but it will pay off plenty when they get here so those have been put in. We are trying to respond to what they need. The Hampton liquor store and the liquor commission, \$340,000 as operating cost of that store. That will be in the capital budget as well. That is moving the old stores from Hooksett to the southbound lane on Hampton where they will go up. We have it in for \$900,000 of revenue to us net in the second year of the biennium, realizing it will really take a year before that gets up and done and two, recognizing the cost. The domestic relations division, the 4-D cases are coming on as to who is really tracing the fathers of welfare kids, that whole situation of the 4-D law and that took \$40,000 to get people to run after the wayward fathers and that is about it between that section of the budget between pages 33-83. Proceeding along to my next section pages 83 to 137. The DRED office, we made a decision that can be argued with. At one point we looked over the economic division of that office, \$130,000 a year. This is the group that sits over across the street here and gets there requests and puts the folders in and mails them out and it no longer has a director as you well know. Mr. Bennett has left and has never been replaced. It has been there for years and eons and I understand that there are some senior employees in it who are very good but in terms of giving a signal to the kind of thing that stays in the budget forever is that we felt that the economic division of the PAU could be better served elsewhere. Cause if you are going to do it you don't need a whole operation like that. That it is really pretty low key. You have to remember that it is \$260,000 over the biennium—that is a lot of money to be spending in that area where it isn't being well-spent. Chances are the committee of conference will pick this up and do something with it. We cut out the photographer for the Fish and Game department. That



photographer has been in and out of these budgets like a yoyo but it is our contention that you can get thousands and thousands of New Hampshire fish going up and down and fish going anywhere. The photographers are all sitting around with fish pictures just waiting to sell them for \$5.00 or \$10.00 a piece. If you need a photographer he is practically in your office before you hang up the phone and click, click, click, he is off and done. Then the turkey program is kept in. The turkey man moves up to take the biologist's place. Here is another one. There has been a vast study program going on in this state for—as long as I've been around—it is always \$23,000 per year regardless of anything. It is justification has always been that it is 75% federally funded and we study bass, and we study bass, and we study bass down at the Univeristy and our recommendation is that we cut out this studying and that we know all that anybody needs to know about bass. In place of that, to show our hearts are in the right place, on the youth development centers that we swing from the right we put sports equipment into the youth development center, \$3,000. Another thing that we sponsored and that the House did not is the halfway house for the prison. \$133,500. We feel that another halfway house should be done, that it is a vital part of the prison program and that everything that we see on the prison side justifies this kind of expense. We also did not adopt the governor's recommendation, we thought it important that there be a laundry office a cook and those other people at the prison. On state police we adopted the governor's recommendation, at least in part. He wanted us to put 15 troopers back in; we put 10 troopers back in. We readjusted, as I said, the funding of the state police and department of safety as I described earlier. Those are the essential parts of this budget up to there. Then we come to my part 4, pages 137 onto the end of the bill. In the first part of that thing you come upon the harbor masters and mooring fees at Portsmouth and on the coast. The House had put in a provision that we fund the harbor masters through the Port Authority so that the mooring fees for anybody would go up to \$50.00 a year. Interestingly to two years ago, the fee was \$1.00 for three years. Then it went to \$5.00 and the House was proposing that we got to \$50.00, regardless of length of boat, regardless of whatever. I happen to be connected with the seacoast and like this kind of stuff and know something about it. So I wrote to the Portsmouth Herald and

the various papers down there and let them know what was going on and got quite a bit of mail back saying that we recognize that there is a need for higher fees and all this and we also recognize that the harbor masters are not being able to do their job. They are underfunded and that there is a lot of vandalism going on down in the harbor. We would like better supervision of police but we don't want it unless it is done right. I propose that we have no mooring fee on anything up to ten feet; those don't have a keel and they can be put in any nook and cranny and they don't take up any room. The room is taken up by the boats that have keels. Standard in the trade if you go into a marina or anywhere else they charge you by the length of your boat. It is a normal way of charging on the commercial people. So we propose that we put on \$1.00 a foot per year. So a 17 foot boat would pay \$17, 50 foot boat would pay \$50.00. I don't really see that this is too bad. Senator McLaughlin had an idea that we ought to charge something for those who don't have a mooring but have a slip in the marinas. That is still something to be considered because they also are the ones whose motors run out on the Saturday afternoons and someone has to go out and pull them in and rescue them. The Coast Guard does not come to your rescue unless you are in danger of life and limb. That is something that they don't realize. If someone in a little boat is drifting towards the shore and it is a calm day and the only problem is the destruction of the property as it hits the rocks, they don't come. So the harbormaster and locals and friends and everybody else are the ones who do it. So there is something to be said for those who don't have moorings but who have slips and who use the harbor should pay something too. The other thing we did was move the harbormasters under the jurisdiction of DRED. The Port Authority really is not involved in the kinds of things where DRED has supervision over that dock down there; they have supervision over the parks and recreation areas. They have people and all that and it seems much more likely that there would be some management given to the harbormasters which has never been given as far as I know. If Gus Gilman's division took over the harbormasters and had it all come in that way and that's how we framed it and we think it makes sense. You pick \$1.2 million in the transfers by the shift of the highway funding of the department of safety. In the department of safety there was a provision for radio replace-

ments. If I have any blank spot in my brain it is radios because I once went and saw the radio room and I am convinced that if you added up all the radios that have been bought by the state of New Hampshire, either through LEAA or whatever, that there is one for every state employee. I know it to be true I just can't prove it. We cut radio replacement by \$99,000 per year, leaving them a \$1,000 a year. That will obviously have to be negotiated somewhat but again it is a signal from Senate Finance saying that we are sick to death of this \$100,000 radio replacement. In the highway budget we have a new thing this year that will never happen again. It is called the transition quarter. It has to do with the situation that the federal government went to October 1, fiscal year. There is a hiatus between July 1 and September 30 that has to be taken care of in the highway budget. It has been taken, we have saved a little bit of money by readjusting the \$25,000, by adjusting the formula, but that is in there. Another thing we did in the highway budget and of course we were hoping that HB 228 would pass, where it would give more highways funds and I am glad because it has passed, we increased the betterment program \$1,000,000 per year. We feel that the betterment program which is free from any strings attached is one of the best programs that we have in the state and that they can build climbing lanes and this and that without having to make a big toodoo and it seems to be very successful. The Public Works and Highways had about 100 cars in there; we have allowed 20 cars. Again, we have the pool that they can bid on as well with their own funds, \$350,000. The central New Hampshire turnpike and the eastern New Hampshire turnpike, we had to add positions there because they are adding lanes and it takes 2.4 persons to man a lane at all times because of 24 hours per day, 7 days a week. So you have to take those calculations in. Also the tolls to pay for it. In the department of transportation an assistant director and an analyst were added costing \$30,000 a year. They seem to be very useful. The Cancer commission, we have restored the field rep at \$10,000 per year. At Laconia, one of the things we had to do—another bill that does a lot for Laconia—on the Intermediate Care Facility units we had to add another \$30,000 because a new formula which has gone from 62% federal down to 60%, that changes the formula and we had to put that in. In the WIN program we cut \$100,000 along with the governor's recom-

mendation, this is the work incentive program mostly federal funds. The Division of Mental Health we have done a good deal of restoring the amount of money going to the community mental health centers. They are at a level which seems to be satisfactory and we feel that that should stay there. In the center for retarded children we had a difficult program. The governor proposed cutting the whole increase that the House had put in. We felt that we could not go along with that so we cut sort of halfway and took \$79,000 out of what the governor wanted and left \$100,000 in the program. On Laconia waterfront we put in \$5,000 for the improvement of the water front swimming facilities on Lake Winnisquam. New Hampshire, the training PAU again was cut. It is an interesting thing. I have always gone along pretty much with Major Wheelock on most things but on this one I have always had difficulty with. It is a thing where you get your staff in and he wants to retrain them and we have trouble even hiring them much less training them. So our feeling was that until you can get fully staffed up and can do something, why put in a training program. Why not put that money into just getting the person there in the first place. On the veterans home, Ken Tarr has won again and rightfully so. Ken Tarr has worked harder at his budget than anyone I know. He is the most assiduous person I know. It is impossible for a person in my position or on finance not to respond to someone who is as detailed, completely dedicated, knows exactly what he should do in opening a new building. It is the old story. If you want to buy a jeep it is going to cost you \$4500. Now you can give me \$2000 but that is not going to buy the jeep. If you want to open the new wing and have it fully operating, you are going to give him 59 employees. You can give him 40 but you are not going to open the thing and get the veterans administration to go along. His figures are as low as anyone on cost per patient so we have restored \$90,000 in the first year and \$110,000 in the second year. Director of children and youth, Senator Jacobson, the director is put back in at \$15,000. In state of aid program, you probably had a lot of mail on this, so have we. We did everything we could—we figured that the first year of the Senate aid program which goes to the colleges, that you need a lot more scholarship aid money the first year than you do in any other year because you haven't gotten to college yet, you don't have any job yet, you have no track record. Banks



won't loan you on your first year and so we left \$150,000 each year on the first year but for the sophomore year, we put in \$100,000 each year on the theory that you need less in the second year. In education, if you go through the budget you will find that most of our changes, almost all of them are in the indirect cost area. Indirect costs were wrongly calculated and so we had a little extra money and in almost every case we put them into the class 90 funds which are grants kinds of programs. For rehab we added \$110,000 and \$80,000 because there was an error in current expense and we had to restore it. Social security administration we put in two people because there is a great deal more work finding out who is eligible under those programs. Again, for the handicapped, this is where we move \$1.2 into the local school districts for the handicapped, that's where it comes in, from the other budget to here. In the sweepstakes we added \$375,000 for the daily numbers games to keep them going. In the University of New Hampshire, the first thing we did was equalize Keene and Plymouth for the first time. Keene has always been a little lower and it went back and forth and we decided that from now on the easiest thing would be to give the exact same general fund dollar amount to Keene and Plymouth. Set that as a goal. Keene was restored \$25,000 and equalizes it. They are almost identical mirror image schools. For the pay raise. The pay raise is in there at \$2.7 million for the University. 5.4 over the biennium and for the 7% pay raise for the state employees it is 7.7 million. There are other things that we have done. One important thing in the back of the book which you would never notice—we are recommending that for the next biennium that we suspend RSA 9:17 and 18 which are the ones that say a department cannot transfer funds from one line to another. From equipment to travel; from other personal services to in-state travel. Those things were put in in the sixties or before on the theory that if we had line items and everybody stuck to it you would know exactly where your dollars went. I think it accomplished that purpose. It was probably a good idea at that time but now it has gotten counterproductive. It has gotten to the point where every department pads each line because he can't be sure of how much he is going to need in any line so that you get a padding effect into the budgets. A lot of these budgets have had no real cost of living increase. No across the board 6%. They are still sitting there with bas-

ically last year's authorized spending. This is the something blue because sadly, we haven't been able to give the cost increases which these departments should have. One thing we can give them is some flexibility. We can give them the right to move their dollars around and it will be fascinating to see what the actual expenses are for fiscal 1978 as regards to the budget it was. For the first time we will know exactly where that guy would have put his money, meaning the department head, if he had had actual flexibility. We are only suspending the thing. It would have to come back another time—we are not repealing it. We feel that this is a good time in our budget process for us to find out where people do use the money and how they would work on a performance basis. So that is a very important part of this thing. The Judiciary, Senate aid, Mental Health Centers are there, the emergency, fuel, food and the thing for the cars is in there. I think I have covered all the major items that we did in the budget. Now there are a lot of little ones that I didn't bother to mention that are just a little bit here and there but are really no policy base at all, no particular interest at all. As you can see we have added on basically to this budget—we have included in our list of goodies in this thing the fact that we're carrying the cost of living retirement specials so we are carrying those as being an obligation of the state. We are carrying the pay raises as being an obligation to the state. Every other budget that has been presented has left those out. Never taken into account the pay raise and the cost of living thing on the pension. So we felt that those were something that we had to deal with and then as you will see on our score sheet, today so far, unless something happens Sunday liquor stores never seen the light of day. We lost 2.4 million on that. On the wine sales and grocery stores that went out the window—we lost 3.4 million on that move but in taking the business profits tax up to 8% we picked up 2.7 million so we are 700,000 down on those two exchanges and our figures show 4.877 as being able if we pass the carbonated beverage tax and the general admission tax. The other taxes—now we don't know what is going to be done but you have the governor working for one and us for another. Everybody else has had the budget on the basis of some supposition as to what is going to happen and we are basing ours on supposition as well. That we think shows you a budget that unlike perhaps former ones where there isn't too much left out. We have got

to this point, I can't see that I can complain greatly with the budget as it now stands in that we have in fact put in the 50 to 55 million that we needed. It is there and it is available. I'll answer any questions, I am sure my committee will answer any question.

Sen. HANCOCK: Under this income sheet that amends workman's comp law, HB 254 was defeated in the House, wasn't it?

Sen. TROWBRIDGE: No I don't think so.

Sen. HANCOCK: That was total disability of employees and I think that was defeated in the House.

Sen. TROWBRIDGE: I can't answer that. If it was then I have a feeling that there will be some other revenue items coming in as well that will take some of the slack up. I agree with you, if that was defeated then I can't count it.

Sen. PRESTON: Senator Trowbridge you mentioned, alluded to the Special Ed funds to aid the towns and cities and as you can imagine we have had a lot of inquiries on this. You alluded to it in the budget and you also earlier indicated there might be a source of new revenue that might also provide funds towards this. Could you project on that in a little more detail as to whether or not they would be better off than in previous years?

Sen. TROWBRIDGE: This is an increase from the present levels that we give to communities for aids to handicapped is something like \$400,000. per year. The House put it in at a 1.7 million per year because we know that 1978 is when the load is going to land on the community, the schooling. The governor advocated cutting it back and we were thinking about doing that and had in fact cut it back to 1 million which would still be a substantial increase. Then when we were considering the business profits tax and the increase that comes in the second year of the biennium, 1.2 million, the built in 5%, we said wouldn't it make more sense to use that money to direct it towards this problem with the school district mainly education of the handicapped then it is to simply have it go out to communities on the basis of business profits tax where it might land in a community that had no handicapped kids. Also it is a way of capping back that pay back that continues in the business profits tax. So that is where our funding came to restore it up to the 1.7 level.

Sen. PRESTON: So did you indicate that it might be a million dollars, is that the figure that you used this year?

Sen. TROWBRIDGE: No, it would have been a million on the first go through from \$400,000 to 1 million and then we said gee we are not very comfortable with that, the house had it at a million 7 and we think they are right but we are getting close on our money because we have done other things. We gave up money to the highway fund from the general fund which we thought we also had to do. So it was Senator Saggiotes suggestion that we say look take this money that is going back to the cities and towns anyhow but recycle it into the program that we know is going to be hitting them and give it to the school districts direct. So I think it is a pretty good move. So it ends up at \$1.650 million each year.

Sen. PRESTON: Though it may be too early to pinpoint Senator Trowbridge, will the towns overall be better off or worse off than they were in the previous year?

Sen. TROWBRIDGE: They will be better off; the business profits tax is growing. That reimbursement is going by 5%. It hasn't been taken away from the municipalities let's call it, it is just coming back in another form but the increase is still going back to the cities and towns. They are not as well off as if you gave them the 1.7 million that the House did plus the 1.2 million over here.

Sen. PRESTON: Aside from Special Ed, just looking at the entire picture we have read where in the governor's budget he might want to take some of the funds that are going to towns, cut them back. As a result of limited action today on your budget, will the communities be receiving more monies or will they be losing in certain areas and receiving less monies and so forth?

Sen. TROWBRIDGE: No I think they will be receiving the same as if we had never changed the formula. They are getting out of the business profits tax thing what they would have gotten if there had been no change. They are getting out of the rooms and meals tax what they would have gotten if there was no change. What they are not getting is the extra increase that they might have liked to have. For instance when we just moved up the rooms and meals tax you could have given them 40% of the increase. That was not done. You could have given them more when you went up on the interest and dividends tax, that was not done, it went to the state. Our needs are great. Our problem is that we have an



inflationary budget which has nothing to do with us, and our revenues do not inflate.

Sen. PRESTON: The \$100,000 for the second year student, is that new Senator Trowbridge?

Sen. TROWBRIDGE: That's new.

Sen. MONIER: On the estimated lapse of 2½%, that is about the same percentage as to what we talked about two years ago?

Sen. TROWBRIDGE: The governor's budget had it up to 3, was using 3% for a long time. I complained to Arthur Fowler saying a tight budget like we have now there is no way that \$12 million is going to lapse.

Sen. MONIER: How about \$10.5?

Sen. TROWBRIDGE: Oh ya, you can get \$10.5 million but it depends on—you still have a lot of positions out there that are authorized and vacant. That is really where it is. You have a lot of other class 90 funds. Some of which get spent.

Sen. MONIER: I see on here approximately 12 different sources of recommendations for cost reductions and additional revenue. So far I see five we have passed and one went to interim study. What happens if we don't pass any of the rest of them?

Sen. TROWBRIDGE: All the rest of them are already done.

Sen. MONIER: One way or the other, right?

Sen. TROWBRIDGE: We are carrying only viable—the only thing that went out today was Sunday liquor stores, wine sales and grocery stores and they were made up in made by the fact that we went to the full 8% on the business profits tax. So we are still in balance as far as we are concerned.

Sen. MONIER: The \$10.00 additional residency tax?

Sen. TROWBRIDGE: Well, that is entered in the House and it is still alive and viable.

Sen. MONIER: But we have not completed it?

Sen. TROWBRIDGE: No we have not completed it, we should not say that. That is why I put them off in the separate sections.

Sen. MONIER: How many of these listed under recommendations for cost of additional revenue have actually not been completed outside of the two that you mentioned?

Sen. TROWBRIDGE: Real estate transfer tax is coming in and I think you will go for it; it is 25c a hundred, that is a

can go back and concur with the Senate amendment which is what they should have done in the first place.

Adopted.

Sen. Jacobson moved to rescind the action whereby the Senate refused to establish a committee of conference on HB 1156, relative to the property tax lien for the elderly and disabled.

Sen. JACOBSON: This bill relates to property tax liens for the elderly and the disabled. Again, the Senate refused to accede to the establishment of a committee of conference. The House has now decided that they will accept the Senate amendment as is. Exactly the same question as in HB 261.

Adopted.

### COMMITTEE REPORTS

HB 575, increasing the appropriation from \$6,000 to \$10,000 for a continuing boat tax fund administered by the department of revenue administration. Ought to pass with amendment. Sen. Smith for the committee.

#### Amendment to HB 575

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

increasing the appropriation from \$6,000 to \$10,000 for a continuing boat tax fund administered by the department of revenue administration; and relative to the inspection of rental boats.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Inspection of Rental Boats. Amend RSA 270 by inserting after section 4 the following new section:

270:4-b Rental Application. Every boat used for purposes

of rental shall have a rental plate. In the case of rental motors the plate may be issued directly. Inboard and inboard/outboard rental boats must be inspected by the division of safety services before the plate is issued.

3 Effective Date. This act shall take effect July 1, 1977.

Sen. SMITH: This bill does two things. The amendment first of all allows that the Division of Safety Services be empowered in the case of rental, inboard/outboard boats to be inspected by the division of safety services before the plate is issued. There have been problems with this in that there had been accidents and I think at the present time the department wants to do this and the boat dealers also want to have an inspection which will give them some protection as far as the use of outboard rental boats and inboard rental boats. That is the amendment. What the bill does is to increase the fund from \$6,000 to \$10,000 which is a continuing fund to be used in the department of revenue administration for the handling of the inventory blanks on boats which are submitted.

Amendment adopted. Ordered to third reading.

HB 553, relative to search and rescue operations; establishing a search and rescue review board and making an appropriation therefor. Ought to pass with amendment. Sen. McLaughlin for the committee.

Sen. Jacobson in the chair.

#### Amendment to HB 553

Amend RSA 206-A:6, as inserted by section 1 of the bill, by striking out same and inserting in place thereof the following:

206-A:6 Workmen's Compensation. Volunteers participating in search and rescue operations organized and directed pursuant to this chapter shall be deemed to be state employees for the purpose of workmen's compensation coverage for state employees under RSA 281:5 and 6. For the purposes of this section, workmen's compensation coverage shall be construed to cover medical fees only.

have a \$13 million dollar package in here for pay raises. That is probably the most vulnerable item. If you want to cut down below there you are not going to have the pay raises. Obviously people would rather stay employed not have a pay raise so I think it is simply here to look back and say if you don't want the pay raise and you don't want to send the money back to the cities and towns and you don't want to do the incentive aid program—these are all add ons. There you are.

Sen. DOWNING: I think Senator that that is the type of input that I was looking for. The finance committee says the first place to go is the pay raises if you don't raise the revenue; make the whole adjustment there.

Sen. TROWBRIDGE: Exactly. What we did differently is that we made another assumption. Maybe it was false but we made an assumption that this Senate would want us to tackle the pay raise problem. That we couldn't come in with a budget that didn't reflect the pay raise. If I am wrong, the committee is wrong, you can speak your priorities very quickly by not passing the revenue and that gives us a signal—you don't want a pay raise.

Sen. DOWNING: Senator you understand that my intention was to just clearly define the first priority of the senate finance committee because I don't think the explanation really defined it. I think it is now defined.

Sen. TROWBRIDGE: Working backwards, I haven't polled the committee on the working backwards but I think I have a pretty good sense. You have the pay raise there, you have this thing about aid to the school districts to handle this handicapped children's problem that is coming on which is going to be a big load to the towns and cities, they don't have it, 2) you have the incentive aid program and you have got some of the unclassified adjustment for unclassified employees that would be another thing that could go for ½ of a million. The pensions for the old teachers wouldn't be able to go; that's a special. That is not a continuing, built into the budget kind of thing. We have taken out of the budget everything that we think we can take out. So those are the kinds of things working back out which comes to about \$16 million right there. So I think it is pretty easy to identify those kinds of things that would have to be cut out. Frankly we did everything in our power to put them in and we are proposing that you are going to want them in or we are going to get



letters from the state employees, they are nice letters now, saying it is unfortunate to see our best people leaving. They haven't had a pay raise in this amount of time. It is the better ones who go leaving the clunkers behind. Always happens in an organization. That kind of thing, if we don't recognize that pay raise problem for our state employees now I can assure you that the quality of this place is going down. I think it is justified and very important. So we have to stretch and get it.

Sen. Trowbridge moved that HB 1000 be laid on the table.  
Adopted.

### SENATE RECONSIDERATION

Sen. Jacobson moved to rescind the action whereby the Senate refused to establish a committee of conference on HB 261, to reimburse the town of Dummer for revenue lost due to the taking of Pontook dam and making an appropriation therefor.

Sen. JACOBSON: This is a bill to reimburse the town of Dummer realting to the Pontook dam. The Senate amended the bill and sent it over to the House who refused to accept and amendment and nonconcurred for a committee of conference. The Senate on return refused to concur and though the bill is dead the House now has agreed to accept the Senate amendment and by this rescinding action it will allow the bill to go back again to the House.

Sen. LAMONTAGNE: I rise in support of the motion that has been made by Senator Jacobson. I have also talked this matter over the chairman of the Finance committee and it has been agreed upon that if the Senate did agree to reconsider that the House would move to concur with the Senate amendment.

Sen. TROWBRIDGE: I would just like to say that we made a decision here and I think the House is sitting over there with every time the Senate makes an amendment they think they have to nonconcur and set up a committee of conference. My only way to say NO, was to nonconcur and I have just done it on another one which is a tiny little study bill that someone wants to have a committee of conference on. A committee of conference isn't going to make any difference at all. I do not mind at all rescinding now so that they

can go back and concur with the Senate amendment which is what they should have done in the first place.

Adopted.

Sen. Jacobson moved to rescind the action whereby the Senate refused to establish a committee of conference on HB 1156, relative to the property tax lien for the elderly and disabled.

Sen. JACOBSON: This bill relates to property tax liens for the elderly and the disabled. Again, the Senate refused to accede to the establishment of a committee of conference. The House has now decided that they will accept the Senate amendment as is. Exactly the same question as in HB 261.

Adopted.

### COMMITTEE REPORTS

HB 575, increasing the appropriation from \$6,000 to \$10,000 for a continuing boat tax fund administered by the department of revenue administration. Ought to pass with amendment. Sen. Smith for the committee.

#### Amendment to HB 575

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

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motors the plate may be issued directly. Inboard and inboard/outboard rental boats must be inspected by the division of safety services before the plate is issued.

3 Effective Date. This act shall take effect July 1, 1977.

Sen. SMITH: This bill does two things. The amendment first of all allows that the Division of Safety Services be empowered in the case of rental, inboard/outboard boats to be inspected by the division of safety services before the plate is issued. There have been problems with this in that there had been accidents and I think at the present time the department wants to do this and the boat dealers also want to have an inspection which will give them some protection as far as the use of outboard rental boats and inboard rental boats. That is the amendment. What the bill does is to increase the fund from \$6,000 to \$10,000 which is a continuing fund to be used in the department of revenue administration for the handling of the inventory blanks on boats which are submitted.

Amendment adopted. Ordered to third reading.

HB 553, relative to search and rescue operations; establishing a search and rescue review board and making an appropriation therefor. Ought to pass with amendment. Sen. McLaughlin for the committee.

Sen. Jacobson in the chair.

#### Amendment to HB 553

Amend RSA 206-A:6, as inserted by section 1 of the bill, by striking out same and inserting in place thereof the following:

206-A:6 Workmen's Compensation. Volunteers participating in search and rescue operations organized and directed pursuant to this chapter shall be deemed to be state employees for the purpose of workmen's compensation coverage for state employees under RSA 281:5 and 6. For the purposes of this section, workmen's compensation coverage shall be construed to cover medical fees only.

Sen. McLAUGHLIN: What it actually does, it says under Workmen's Compensation coverage they will pay for the medical fees only if the use of rescue work up in the north Conway area which has occasionally happened in the past and is apt to happen in the future when people go out and get lost in the woods and so forth. All we are doing here is say we will pay for the medical fees if anything happens while they are being used by the state for rescue work.

Sen. BERGERON: Senator on that amendment, the subject of that amendment sounds familiar to me, wasn't there a separate bill dealing with this subject?

Sen. McLAUGHLIN: I don't know about any other bill I am only talking about 553.

Sen. BERGERON: Could you tell us who requested that amendment?

Sen. McLAUGHLIN: Senate Finance.

Sen. BERGERON: Would you believe the reason we are asking the question is the insurance committee had that bill. We posted notice on it and no one bothered to appear so we don't know the first thing about it?

Sen. McLAUGHLIN: I can't help you that way.

Amendment adopted. Ordered to third reading.

HB 596, amending the real estate transfer tax. Ought to pass with amendment. Sen. Trowbridge for the committee.

#### Amendment to HB 596

Amend the bill by striking out sections 1 and 2 and inserting in place thereof the following:

1 Real Estate Transfer Tax. Amend RSA 78-B:1 (supp) as inserted by 1967, 320:1 as amended by striking out said section and inserting in place thereof the following:

##### 78-B:1 Transfer Tax.

I. A tax is imposed upon the sale, granting and transfer of real estate and any interest therein, other than by devise or by the laws regulating interstate succession and descent. The rate of the tax is \$.25 per \$100, or fractional part thereof, of either (a) the price or consideration for such a sale, grant or transfer or (b) the current equalized assessed valuation of such real estate, whichever is greater. Notwithstanding the



foregoing provisions, there shall be no tax as exempted by RSA 78-B:2.

II. The term "current equalized assessed valuation" shall be determined by dividing the current assessed valuation of such real estate by the current equalized valuation rate as determined pursuant to RSA 71-B:5 applicable to the city, town or other place in which such real estate is located.

III. Twenty-five percent of the funds derived from the imposition of this tax will be paid over to the treasurer and reserved for the use of the water supply and pollution control commission in administering the provisions of RSA 149-E. Funds which may accrue and which are in excess of the legislative appropriation made for the administration of RSA 149-E shall be transferred to the general fund.

2 Statement Required. Amend RSA 78-B:4 as inserted by 1967, 320:1 by striking out said section and inserting in place thereof the following:

78-B:4 Payment of Tax by Purchaser; Statement.

I. It is the duty and obligation of each purchaser, grantee, assignee, transferee or other person purchasing or acquiring any real estate or any interest therein to buy and attach to the instrument by which the real estate or interest therein is sold, granted, assigned or otherwise transferred stamps or in lieu thereof other indicia as approved by the department of revenue administration, in such amount as will indicate the full consideration paid for the real estate or any interest therein, acquired by him.

II. It is the duty and obligation of each seller, grantor, assignor, transferor or other person selling or transferring any real estate or any interest therein to include in the instrument by which the real estate or interest therein is sold, granted, assigned or otherwise transferred a statement setting forth the current equalized assessed valuation of such real estate.

Amend the bill by striking out section 5 and inserting in place thereof the following:

5 Filing a Declaration. Amend RSA 78-B by inserting after section 6 the following new section:

78-B:6-a Declaration; Required.

I. Each deed, except those exempted by the provisions of RSA 78-B:2, when offered for recording shall be accompanied by a fully executed statement or declaration prepared

in triplicate and signed, subject to the penalties of perjury, by the parties to the transaction or their authorized representatives, declaring the consideration for the property thereby transferred.

II. If the transfer is declared not subject to the transfer tax, the reason therefor shall be stated.

III. The declaration shall be in form prescribed by the commissioner of the department of revenue administration pursuant to RSA 478:15 who shall provide an adequate supply of such forms to each register of deeds in the state.

IV. The register of deeds shall transmit all copies of the declaration, indicating thereon the book and page number made of the recording in the space provided on the form and the value of the stamps affixed to the deed, to the selectmen or assessors not later than the fifth working day of each month from the date of recordation of the deed. The statement or declaration shall bear the seal of the registry of deeds prior to transmittal to the selectmen or assessors, in lieu of mailing the list of conveyances for tax purposes as provided by RSA 478:14.

V. The selectmen or assessors shall, on or before the twentieth day of each month following the date of receipt, transmit remaining copies of each declaration of value to the commissioner of the department of revenue administration for appropriate audit.

VI. The declaration of value required herein shall be confidential and no information thereon shall be divulged or disclosed by any state or local official except in judicial proceedings and shall be used only for the purpose of determining equalized valuation. Under no circumstances shall the register of deeds be responsible for the filling out or the accuracy of the declaration filed by the buyer and seller.

6 Effective Date. This act shall take effect 60 days after its passage.

Sen. TROWBRIDGE: We are back to the original basis for the real estate transfer tax. As you will recall the governor put in a proposal saying that there should be a minimum tax of \$45.00 per transaction. That was not accepted by the house. That would have been at about 22 to 23 cents a hundred. It came into us at 20 cents a hundred. It also did not include any provision for transfer tax on what we call friendly sales. This is where people transfer land for a dollar

and no other considerations and there are no other transfer taxes on it. Our amendment comes back with 25 cents per hundred which is in the original range where it should have been to raise the money we need to raise and secondly it also taxes it if it is below its current equalized valuation. You have to pay transfer tax on the actual value of the transaction whether you record and pay that actual value or not so this brings in a good deal of extra money in the transfer tax. We thought that on the normal transaction where someone bought a house for \$15,000 ten or fifteen years ago and sells it at \$35,000 now that the difference would be somewhere around \$25.00 that he would have paid on our bill as opposed to the other bill. We think that is fair that he has had that capital gain that the seller can stand it. Not that many people can turn over real estate all the time and it makes a difference of 1.6 million in revenue. We are proposing and I don't think there should be any big problem because it is only 25 cents per hundred.

Sen. BRADLEY: I rise in opposition. I have no problem with going to 25 cents but the business of tying this thing to current assessed equalized valuation, I don't think is administratively workable and I thought that that had been gotten out of there and that was made clear. The registrar of deeds is very opposed to it as I understand it and I understand what their problem is and I have real problems with seeing how that is going to work realistically. I don't know how much extra money you would get from that I really wouldn't think it would be that much. I think for example when you have these straw deals to change title, now you say the consideration is less than \$100, no tax due, fine. And there are more of those than you might think, at least in the law office and I am just wondering if every time we have one of those damn deeds if we have to put on there what the assessed valuation is. I don't think the thing will work. I don't know what the bill is without the amendment, whether that is still okay but that amendment I have problems with.

Sen. KEENEY: Senator Trowbridge as it came to Finance was not part of the amount which would be collected something like 5 cents on the dollar going into a special land fund and that has been cut out by your amendment?

Sen. TROWBRIDGE: No I don't think so. 25% of the funds of the imposition will be paid over to the Water Supply

and Pollution Control Commission etc. That is the same language that was in.

Sen. KEENEY: Wasn't there an additional amount that was going into the land fund where it could be used for open space?

Sen. TROWBRIDGE: Not that we saw. When it came into us all we changed was the rate from 20 to 25 cents and adding in the thing that Senator Bradley doesn't like that the equalized current assessed valuation shall be determined and used as a standard on land transactions if they come in with phony figures—saying it is only worth \$1,000. Those are the only two changes that we made because they raise revenue.

Division vote: 10 Senators voted yea: 11 Senators voted nay.

(Sen. Foley, Preston, Brown, Downing, Bradley, Gardner, Hancock recorded in opposition.)

Amendment adopted.

Sen. Trowbridge moved a further amendment to HB 596.

#### Amendment to HB 596

Amend RSA 78-B:4, I as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

I. It is the duty and obligation of each purchaser, grantee, assignee, transferee or other person purchasing or acquiring any real estate or any interest therein to buy and attach to the instrument by which the real estate or interest therein is sold, granted, assigned or otherwise transferred stamps or in lieu thereof other indicia as approved by the department of revenue administration, in such amount as will indicate the full consideration paid for, or the current equalized assessed valuation of the real estate or any interest therein, acquired by him, whichever is greater.

Sen. TROWBRIDGE: This is a technical amendment that was brought to me by the Department of Revenue Administration. You can read it yourself. It is the duty and obligation of each purchaser, grantee, assignee, etc. Somehow in changing



the statute on here on the percentage we dropped out the thing that says they have to buy the stamps. We have to get this back in and it is quite important but it is nothing that I have anything to do with or should be complicated. It is really I am told, absolutely noncontroversial putting back in language that is already in the statute. From reading it it looks just exactly like that.

Amendment adopted. Ordered to third reading.

HB 870, to provide for the use of interpreters for the deaf for all administrative and judicial proceedings in which deaf persons are involved and relative to hearing dogs. Ought to pass. Sen. Trowbridge for the committee.

Sen. TROWBRIDGE: It is a great pleasure to bring this bill onto the floor. It is known as Rin Tin Tin's bill. You will note on page 5, seeing eye or hearing dogs and at the very end of the bill it says no fee shall be required for the registration or licensing of a dog that has served with the forces of the United States during World War II. We think this may be tiger but we are not sure. So Rin Tin Tin or seeing eye dog, or served with the U.S. forces he is exempted. The main part of the bill is saying that if you have a hearing that is going on with a deaf person that they can require especially in health and welfare divisions, you need to have an interpreter so that the deaf person can truly understand what is going on. There is very little way in finding out just how many of these would be true. We do not think the financial impact is sufficient to warrant not passing the bill. It seems in very good order. We move it ought to pass.

Adopted. Ordered to third reading.

HB 680, relating to the replacement and road repair of a certain bridge between Walpole, NH and Bellows Falls, Vt. Ought to pass. Sen. Blaisdell for the committee.

Sen. BLAISDELL: Senator Poulsen reported this bill out in the Senate last week. It does just what it says here. It is for the replacement and road repair of a certain bridge between Walpole, N.H. and Bellows Falls, Vermont. The Highway

Department agrees with this and Senate Finance agrees. We ask that you pass the bill.

Adopted. Ordered to third reading.

HB 497, relative to the distribution of dog license fees and making an appropriation therefor. Ought to pass. Sen. Smith for the committee.

Sen. SMITH: The bill increases the amount of fee that the town clerk receives from 20 cents to 50 cents and that is the first increase that town clerks have had I believe since 1898. The second portion of the bill says that 50 cents of the registration fee will go to the state treasurer to be set up in a special fund to fund the veterinary diagnostic laboratory. We have not changed the bill since it passed to us from the floor of the Senate.

Adopted. Ordered to third reading.

HB 456, providing for the preparation of an election procedure manual and making an appropriation therefor. Ought to pass. Sen. Smith for the committee.

Sen. SMITH: This bill appropriates \$7,500 for the bien-nium for the preparation of an election procedure manual which it is hoped will be more in conformity with things which are readable so that those people involved with the elections may have a fuller understanding of the laws which they are attempting to enforce.

Adopted. Ordered to third reading.

HB 550, relative to agreements with veterinary medical schools to provide education to qualified New Hampshire residents. Ought to pass. Sen. Blaisdell for the committee.

Sen. BLAISDELL: Mr. President, members of the senate, as most of you know we have 5 people that we save spaces at the veterinary schools in this country, two are at Ohio State and two at the University of Pennsylvania and one at Cornell university. All this bill does here is raise the amount from \$8,000 to \$8,500. It will give us five spots at the veteri-

nary school. I am sure that you do know that the vet students do have to pay this contract back. We ask you to vote for the bill.

Adopted. Ordered to third reading.

HB 302, to provide for interest on tax refunds for all taxes administered by the department of revenue administration. Ought to pass. Sen. Trowbridge for the committee.

Sen. TROWBRIDGE: This bill which comes in without amendment sets up a general section saying that if people overpay their taxes, let us say to Revenue Administration or to the refined products tax or business products tax, if they make overpayment and no refund is given in three months that they shall be paid 6% not 10%, a 6% increase after the three month period interest if the department simply holds it arbitrarily. This is the reverse of the six percent that is collected if they don't pay the tax. The other parts of the bill simply refer to the general section and all the taxes that have this circumstance including the refined petroleum tax where there have been some overpayments and then they make claim for refund. The department doesn't give refund. It turns out later on they should have given refund. The interest at 6% is allocated to the taxpayer who was deprived of his money.

Sen. DOWNING: Senator doesn't the Department charge at the rate of 10% now?

Sen. TROWBRIDGE: They may charge at the rate of 10% but this bill says 6% is what they are going to pay, interest on overpayments. It came from your committee.

Sen. DOWNING: Did it come to you at 10% rather than the 6% so you would be paying back at the same rate that you would be paying out?

Sen. TROWBRIDGE: No. The 10% was on the analysis but the bill as it came into the Senate out of the Senate Ways and Means says 6%. We made no change in the bill whatsoever. All we were looking at was how much possibility there would be of a appropriation. We think it is in the area that is okay.

Sen. Downing moved that HB 302 be laid on the table.  
Adopted.

HB 232, amending the method of charging boat registration fees; revising the distribution of boat registration fees; requiring the issuance of annual boat number plates and making an appropriation therefor. Ought to pass. Sen. Sanborn for the committee.

Sen. SANBORN: This bill goes to the water resources board to keep the dams and so forth repaired throughout the state. Senate finance could find nothing wrong with the bill and suggested that it be passed at this time without any amendment.

Adopted. Ordered to third reading.

HB 93, relative to the licensing of electrologists. Ought to pass. Sen. Trowbridge for the committee.

Sen. TROWBRIDGE: Again this a bill in which all we looked at was the money side. This is an appropriation of \$2,000 to public health services in the first year to get them going and \$1300 in the second year and their fee should more than make up for licensing of electrolysis out of this other board. We found no problem with the bill at all.

Adopted. Ordered to third reading.  
(Sen. Downing recorded in opposition.)

HB 291, making an appropriation to the department of resources and economic development for grants and loans for projects authorized by titles I, II, IV of the Public Works and Economic Development Act of 1965. Ought to pass. Sen. Sanborn for the committee.

Sen. SANBORN: The only thing that we are looking at is the appropriation. This appropriates the sum of \$59,767 in the first year \$38,100 in the second year to balance off an additional \$114,299 provided by the federal government for projects authorized under title 1, 2 and 4 of the public works and economic act of 1965. We have no opposition.

Adopted. Ordered to third reading.



HB 410, relative to the competency of persons applying for a hunting license for the first time. Ought to pass. Sen. Blaisdell for the committee.

Sen. BLAISDELL: Mr. President, HB 410 what this bill does is it has a requirement that first time hunters whether 16 years of age or 40 years of age will need a certificate of competency. That means they have to have a hunter safety course or something of that equivalency. The second part of the bill has to do with liability insurance for the instructor to charge against the fish and game fund. The Senate Finance looked at this and asked that you pass it.

Adopted. Ordered to third reading.

HB 518, relative to retirement benefits for teachers who retired prior to 1957 and relative to retirement credit for William J. Byrne and making an appropriation therefor. Ought to pass with amendment. Sen. Trowbridge for the committee.

#### Amendment to HB 518

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Cost of Living Allowance Provided. Amend RSA 192:30 (supp) as inserted by 1973, 276:1 as amended by striking out said section and inserting in place thereof the following:

192:30 1978 Allowances.

I. Any beneficiary who retired prior to July 1, 1957 and who is in receipt of a retirement allowance including any teacher retired under the teacher's retirement system as established by RSA 136, shall have his monthly allowance increased by the amount indicated in paragraph II of this section. Provided, however, if any such beneficiary has filed an election in accordance with RSA 192:13, II, his retirement allowance shall be increased for said period only in the proportion which the Consumers Price Index issued by the United States Department of Labor, Bureau of Labor Statistics, for the month as indicated in paragraph II, bears to the corresponding index for the year in which the member retired. In the event the retired member is receiving a reduced

retirement allowance because of having elected an option, such increased retirement allowance shall be reduced in the same proportion as the retirement allowance prior to optional modification was reduced at retirement. If the beneficiary of a retired member who retired prior to July 1, 1957 and elected an option providing for a survivor annuity is in receipt of such survivor annuity, such beneficiary shall be paid month an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification had he been living, as the survivor annuity bears to the full allowance prior to optional modification of such former retired member at retirement. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowances payable underunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

II. The beneficiary shall have his month allowance increased in the same proportion which the Consumer Price Index, issued by the United States Department of Labor, Bureau of Labor Statistics for the month of November, 1976 bears to the corresponding index for the year in which the member retired; except that in the case of service beneficiaries, such increased retirement allowance shall be at least \$120 for each year of creditable service at retirement not exceeding 30 years, and in the case of disability beneficiaries, such increased retirement allowance shall be at least \$102 for each year of creditable service at retirement not exceeding 30 years.

III. Any additional allowance shall not be less than 6 1/4 percent greater than the additional allowance paid in 1976.

IV. Additional allowances payable under this section shall be optional as to a given beneficiary, and shall be payable to such beneficiary at his discretion.

V. The governor shall hereafter include in his budget, as required by RSA 9, an item indicating a proposed appropriation to the New Hampshire retirement system to cover the cost of additional cost of living allowances, for beneficiaries covered hereunder, for the ensuing biennium.

VI. Additional cost of living allowances provided hereun-

der shall be paid by the employer in the same proportion as the normal contribution is paid.

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Appropriation. There is hereby appropriated for the purposes of this act for the fiscal year ending June 30, 1978 the following sum: \$202,106 from the general fund. There is hereby appropriated for the fiscal year ending June 30, 1979 the following sums: \$70,737 from the general fund; \$131,369 from political subdivisions. The governor is authorized to draw his warrant for said sums out of the appropriate funds.

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 Effective Date.

I. RSA 192:30, I, II, III, IV and V, as inserted by section 1 of this act, and sections 2 and 3 of this act shall take effect July 1, 1977.

II. RSA 192:30, VI, as inserted by section 1 of this act, shall take effect July 1, 1978.

Sen. TROWBRIDGE: This bill and 601 are related. They are the two cost of living increase to retired state employees. 518 is for a specific group that retired before 1957. They are the ones that got no retirement and also no social security. They are really out there on those pensions alone with nothing that escalates. The cost of that one is \$202,000 per year. The cost is basically to give to each person or make available to him unless he has some other retirement plan, \$3600 per year. Some of them are getting as little as \$1500 per year now. The amendment also does another thing which 601 does too. I will discuss that in more detail. This is simply a making available the \$3600 per year to those people unless it somehow throws off their other pension plan. We felt this for a long time that there is just no way that we can justify not doing this. Obviously it is a diminishing group and will go down and not up.

Amendment adopted. Ordered to third reading.

HB 601, providing cost of living increases for all retired members of New Hampshire retirement system. Ought to pass with amendment. Sen. Trowbridge for the committee.

### Amendment to HB 601

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

providing cost of living increases for all members of the New Hampshire retirement system and relative to the state share of the normal contribution for non state employee members of the New Hampshire retirement system, the firemen's retirement system and the policemen's retirement system.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Cost of Living Increase. Amend RSA 100-A by inserting after section 42 the following new section:

#### 100-A:43 Additional Allowances.

I. All beneficiaries who are receiving retirement allowances according to the table listed in paragraph II shall receive the stated cost of living increase according to the indicated period of retirement from the retirement system of which they were members or its successor system.

II.	Employees—When Retired	Retir.	% Inc.
		System	Payable
(a) Teachers—7/1957-6/1961		RSA 192	25
(b) Teachers—7/1961-12/1967		RSA 192	18
(c) Teachers—1/1968-9/1/1975		RSA 192	12
(d) Teachers—1/1968-9/1/1975		RSA 100-A	12
(e) Firemen—Prior to 7/1961		RSA 102	25
(f) Firemen—July, 1961-12/1967		RSA 102	18
(g) Firemen—1/1968-9/1/1975		RSA 102	12
(h) Firemen—1/1968-9/1/1975		RSA 100-A	12
(i) Policemen (Muni. & St.)—Prior to 7/1961		RSA 103	25
(j) Policemen (Muni. & St.)—7/1961-12/1967		RSA 103	18
(k) Policemen (Muni. & St.)—1/1968-9/1/1975		RSA 103	12
(l) Policemen (Muni. & St.)—1/1968-9/1/1975		RSA 100-A	12
(m) State & Muni. Emps.—Prior to 7/1961		RSA 100	25



(n) State & Muni. Emps.—7/1961-12/1967	RSA 100	18
(o) State and Muni. Emps.—1/1968-9/1/1975	RSA 100	12
(p) State & Muni. Emps.—1/1968-9/1/1975	RSA 100-A	12

III. Any beneficiary listed in paragraph II who is receiving a retirement allowance shall, have his monthly allowance increased by the percentage indicated in paragraph II. In the event the retired member is receiving a reduced retirement allowance because of having elected an option, such increased retirement allowance shall be reduced in the same proportion as the retirement allowance prior to optional modification was reduced at retirement. If the beneficiary of a retired member who elected an option providing for a survivor annuity is in receipt of such survivor annuity the beneficiary shall be paid monthly an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. Nothing in this section shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable by this section shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

IV. Any retired permanent police beneficiary whose retirement benefit under RSA 103 is less than \$100 per month and who retired prior to May 1, 1961, shall, receive an additional monthly retirement allowance equal to the amount by which his regular monthly retirement benefit is less than \$100.

V. The governor shall hereafter include in his budget, as required by RSA 9, an item indicating a proposed appropriation to the New Hampshire retirement system to cover the cost of additional cost of living allowances, for beneficiaries covered hereunder, for the ensuing biennium.

VI. Additional cost of living allowances provided hereunder shall be paid by the employer in the same proportion as the normal contribution is paid.

2 State Contribution. Amend RSA 100-A:16, II, (b), (c), (d), and (e) (supp) as inserted by 1967, 134:1 as amended by

striking out said subparagraphs and inserting in place thereof the following:

(b) The contributions of each employer for benefits under the retirement system on account on group II members shall consist of a percentage of the earnable compensation of its members to be known as the "normal contribution", and an additional amount to be known as the "accrued liability contribution"; provided that any employer, other than the state, shall pay 65 percent of such total contributions, and 35 percent thereof shall be paid by the state; and provided further that in case of group II members employed by the state the state shall pay both normal and accrued liability contributions. The rate percent of such normal contribution in each instance shall be fixed on the basis of the liabilities of the system with respect to the particular members of the various member classifications as shown by actuarial valuation.

(c) The contributions of each employer for benefits under the retirement system on account of group I members shall consist of a percentage of the earnable compensation of its members to be known as the "normal contribution", and an additional amount to be known as the "accrued liability contribution"; provided that, in the case of teachers, any employer, other than the state, shall pay 65 percent of such total contributions, and 35 percent thereof shall be paid by the state; and provided further that in case of teacher members employed by the state the state shall pay both normal and accrued liability contributions. The rate percent of such normal contribution in each instance shall be fixed on the basis of the liabilities of the system with respect to the particular members of the various member classifications as shown by actuarial valuation.

(d) Commencing with the date of establishment and until the amount of the unfunded accrued liability has been established, the board of trustees shall determine the percentage normal contribution rate on account of each member classification as the uniform and constant percentage of the earnable compensation of the average new entrant member which, if contributed on the basis of his earnable compensation throughout his entire period of active service, would be sufficient to provide for the payment of any state annuity payable on his account from contributions by the employer. Commencing with the valuation as of June 30, 1969, the percentage normal contribution rate shall be determined after

each actuarial valuation as the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the state annuity accumulation fund on account of each member classification the amount of the unfunded accrued liability, and the total amount of the funds in hand to the credit of the respective member classifications in that fund and dividing the remainder by one percent of the present value of future compensation of all members within the appropriate member classification. Until the actuarial valuation as of June 30, 1969 has been prepared, the normal contribution rate for employee members shall be 3-2/10 percent, for teacher members shall be 3-1/2 percent, for permanent policemen members shall be one percent, and for permanent firemen members shall be one percent.

(e) Immediately following the actuarial valuation prepared as of June 30, 1968, the board shall have an actuary determine the amount of the unfunded accrued liability for each member classification as the amount of the total liabilities of the state annuity accumulation fund on account of such classification which is not dischargeable by the total of the funds in hand to the credit of the state annuity accumulation fund on account of such classification, and the aforesaid normal contributions to be made on account of the members in such classification during the remainder of their active service. The amount so determined with respect to each member classification shall be known as the "unfunded accrued liability" with respect to such classification. On the basis of each such unfunded accrued liability, the board shall have an actuary determine the level annual contribution required to discharge such amount over a period of 20 years from June 30, 1968.

3 State Contribution for Firemen's Retirement System. Amend RSA 102:10 (supp) as amended by striking out said section and inserting in place thereof the following:

102:10 Contributions.

I. At the beginning of each year commencing on the first day of July the board of trustees shall certify to each employer other than the state the percentage rates of contribution due the system from each such employer, and shall assess upon each such employer such percentages of the earnable compensation of members in its employ, and it shall be the duty of the treasurer or other disbursing officer of each such employer to pay to the board of trustees such portion of

the annual amount so assessed at such times and in such manner as the board of trustees may prescribe. Each such employer is hereby authorized to appropriate the sums necessary for the payment of such assessments.

II. The contributions of each employer for benefits under the retirement system on account of firemen members shall consist of a percentage of the earnable compensation of its members to be known as the "normal contribution", and an additional amount to be known as the "accrued liability contribution"; provided that any employer, other than the state, shall pay 65 percent of such total contributions, and 35 percent thereof shall be paid by the state; and provided further than in case of firemen members employed by the state the state shall pay both normal and accrued liability contributions.

4 Normal Contribution. Amend RSA 102:11 (supp) as amended by striking out said section and inserting in place thereof the following:

102:11 Normal Contribution Rate. The normal contribution rate shall be determined as the uniform and constant percentage of the annual salary of the average new permanent fireman entering the system which, if contributed on the basis of his salary throughout his entire period of active service would be sufficient, together with the assessment provided in RSA 102:9, to provide for the payment of any benefit payable on his account under this chapter. The accrued liability contribution shall be determined by the actuary as the amount necessary to liquidate the unfunded accrued liability as of June 30, 1968 over a period of 20 years from that date. The unfunded accrued liability is the amount of the total liabilities of the system which is not dischargeable by the funds in hand, the assessment and the normal contribution. After the determination of the unfunded accrued liability as of June 30, 1968, the normal contribution shall be determined after each actuarial valuation as the rate percent of the annual salary of each participating permanent fireman obtained by deducting from the total liabilities of the system the amount of the funds in hand, the present value of future assessments and the then current unfunded accrued liability and dividing the remainder by one percent of the present value of the future salaries of all permanent firemen who are then participating in the system.

5 Contributions for Police System. Amend RSA 103:9 by



striking out said section and inserting in place thereof the following:

103:9 Contributions.

I. At the beginning of each year commencing on the first day of July the board of trustees shall certify to each employer other than the state the percentage rates of contribution due the system from each such employer, and shall assess upon each such employer such percentages of the earnable compensation of members in its employ, and it shall be the duty of the treasurer or other disbursing officer of each such employer to pay to the board of trustees such portion of the annual amount so assessed at such times and in such manner as the board of trustees may prescribe. Each such employer is hereby authorized to appropriate the sums necessary for the payment of such assessments.

II. The contributions of each employer for benefits under the retirement system on account of police members shall consist of a percentage of the earnable compensation of its members to be known as the "normal contribution"; and an additional amount to be known as the "accrued liability contribution"; provided that any employer, other than the state, shall pay 65 percent of such total contributions, and 35 percent thereof shall be paid by the state; and provided further than in case of police members employed by the state the state shall pay both normal and accrued liability contributions.

6 Rate of Contribution; Police System. Amend RSA 103:10 (supp) as amended by striking out said section and inserting in place thereof the following:

103:10 Normal Contribution Rate. The normal contribution rate shall be determined as the uniform and constant percentage of the annual salary of the average new permanent policeman entering the system which, if contributed on the basis of his salary throughout his entire period of active service would be sufficient, together with the assessment provided in RSA 103:7, to provide for the payment of any benefit payable on his account under this chapter. The accrued liability contribution shall be determined by the actuary as the amount necessary to liquidate the unfunded accrued liability as of June 30, 1968 over a period of 20 years from that date. The unfunded accrued liability is the amount of the total liabilities of the system which is not dischargeable by the funds in hand, the assessment and the normal contribu-

tion. After the determination of the unfunded accrued liability as of June 30, 1968, the normal contribution shall be determined after each actuarial valuation as the rate percent of the annual salary of each participating permanent policeman obtained by deducting from the total liabilities of the system the amount of the funds in hand, the present value of future assessments and the then current unfunded accrued liability and dividing the remainder by one percent of the present value of the future salaries of all permanent policemen who are then participating in the system.

7 State's Share to Decrease. The state's share of the total contribution rate under RSA 100-A:16, II, (b) and (c), RSA 102:10, II and RSA 103:9, II shall decrease by 5 percent annually for 7 years beginning July 1, 1979 and the employer share of said total contribution rate shall increase by 5 percent annually for the stated period.

8 Accrued Liability Contribution Level. Notwithstanding any other provisions of this act, the total amount to be expended by the state for its share of the accrued liability contribution for non state employee members shall not be reduced below current levels at the effective date of this act.

9 Appropriation. There is hereby appropriated for the fiscal year ending June 30, 1978, for the purposes of section one of this act, the following sums: \$9,777 from the fish and game fund, \$109,998 from highway funds and \$1,102,422 from general funds and, for the fiscal year ending June 30, 1979, the following sums: \$9,777 from the fish and game fund, \$109,999 from highway funds, \$503,650 from general funds and \$598,772 from the political subdivisions. The governor is authorized to draw his warrant for said sums out of the appropriate fund.

10 Repeal. RSA 192:31, relative to cost of living increases for teacher beneficiaries who retired between July 1, 1957 and July 1, 1961, is hereby repealed.

11 Repeal. RSA 192:32, relative to cost of living increases for teacher beneficiaries, who retired between July 1, 1961 and January 1, 1968, is hereby repealed.

12 Repeal. RSA 192:33, relative to cost of living increases for certain teacher beneficiaries who retired between January 1, 1968 and September 1, 1973, is hereby repealed.

13 Repeal. RSA 100-A:37, relative to cost of living increases for certain teacher beneficiaries who retired between January 1, 1968 and September 1, 1973, is hereby repealed.

14 Repeal. RSA 102:24-a, relative to cost of living increases for firemen beneficiaries who retired prior to July 1, 1961, is hereby repealed.

15 Repeal. RSA 102:24-b, relative to cost of living increases for firemen beneficiaries who retired between July 1, 1961 and January 1, 1968, is hereby repealed.

16 Repeal. RSA 102:24-c, relative to cost of living increases for certain firemen beneficiaries who retired between January 1, 1968 and September 1, 1973, is hereby repealed.

17 Repeal. RSA 100-A:38, relative to cost of living increases for certain firemen beneficiaries who retired between January 1, 1968 and September 1, 1973, is hereby repealed.

18 Repeal. RSA 103:14-b, relative to cost of living increases for municipal and state police beneficiaries who retired prior to July 1, 1961, is hereby repealed.

19 Repeal. RSA 103:14-a, relative to cost of living increases for municipal and state police beneficiaries who retired between July 1, 1961 and January 1, 1968, is hereby repealed.

20 Repeal. RSA 103:14-e, relative to cost of living increases for certain municipal and state police beneficiaries who retired between January 1, 1968 and September 1, 1973, is hereby repealed.

21 Repeal. RSA 100-A:39, relative to cost of living increases for certain municipal and state police beneficiaries who retired between January 1, 1968 and September 1, 1973, is hereby repealed.

22 Repeal. RSA 103:14-g, relative to cost of living increases for retired permanent police beneficiaries whose retirement benefit under RSA 103 is less than \$100 per month, is hereby repealed.

23 Repeal. RSA 100:20-b, relative to cost of living increases for state and municipal employee beneficiaries who retired prior to July 1, 1961, is hereby repealed.

24 Repeal. RSA 100:20-e, relative to cost of living increases for state or municipal employee beneficiaries who retired between July 1, 1961 and January 1, 1968, is hereby repealed.

25 Repeal. RSA 100:20-i, relative to cost of living increases for certain state or municipal employee beneficiaries who retired between January 1, 1968 and September 1, 1973, is hereby repealed.

26 Repeal. RSA 100-A:41, relative to cost of living in-

creases for certain state or municipal employee beneficiaries who retired between January 1, 1968 and September 1, 1973, is hereby repealed.

27 Effective Date.

I. The following shall take effect July 1, 1977:

(a) RSA 100-A:43, I, II, III, IV, V, as inserted by section one of this act.

(b) Sections 7, 8 and 9 of this act.

(c) Sections 10 through 26 of this act.

II. The followin shall take effect July 1, 1978:

(a) RSA 100-A:43, VI, as inserted by section one of this act.

(b) Sections 2 through 6 of this act.

Sen. TROWBRIDGE: These are slightly up from the bill that we did last session and the session before because the cost of living has escalated. Another thing is that now that the supreme court has decided the constitution does not prevent us from paying these cost of living increases through one year. We can spread the payment out over 24 months so they don't get a big lump in one year and not the second year. And that is done. Finally one of the things that we have been plagued with here is that this cost of living increase comes totally out of the state. It doesn't come out of the cities and towns really that much. What we are trying to do is to get a formula in here which will show that the state in each pension there is an employee share and an employer share. It is roughly 50-50. As time has gone on the employee share has stayed rather stable. As we tacked on more benefits the employer share has taken more. Under certain old statutes the teachers retirement field, the state pays 40% of the employer's share. So the school district is being relieved of 40%. Especially when you do the add ons which don't come out of the employee at all. We are and the other employer people are beginning to get really whacked with the extras that we are giving let us say to teachers in a school district. So what we have in this bill is a phase down where the 40% share will go down to 35%, 30, 25 and so on over 8 years. So the employer's share which is properly the school districts share, not the state's share, will be picked up over a period of time. That is what you will say a lot of paragraphs in this amendment that is doing that for all the places where we as a State have been taking over more and more of the



employer's share and really should not be when the municipal employees or school district employees. Obviously we have to pick it up when they are State employees cause we are the employer. That factor is something we brought in two years ago saying that there has got to be an end to having the school district give a raise to the teachers, that raises the state share to 40% without our having any control over it. If they only knew what the true cost of this retirement system is maybe the schools would feel differently about it. This is a method of phasing in so there is nothing happening too hard or too fast on the municipality. We believe it is time to do this; we all agree so HB 601 comes in with this amendment. I still support the bill very much.

Amendment adopted. Ordered to third reading.

HB 608, relative to the responsibilities and reorganization of the division of mental health and making an appropriation therefor. Ought to pass with amendment. Sen. Trowbridge for the committee.

#### Amendment to HB 608

Amend RSA 126-D:6-8 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

126-D:6 Deputy Directors. There shall be 2 deputy directors of the division. The director of the division, after consultation with the advisory commission and the commissioner, shall nominate one or more persons duly qualified through training or experience to serve as deputy director for developmental services and deputy director for mental health services. From those nominated, the governor and council shall appoint a deputy director for developmental services and a deputy director for mental health services who shall serve for a term of 4 years and until a successor is appointed and qualified. Any vacancy shall be filled for the full 4-year term in the same manner as the original appointment. The provisions of RSA 21:33-a shall not apply to appointments made under this section.

126-D:7 Deputy Director for Mental Health Services;

Duties. Duties of the deputy director for mental health service shall be:

I. Under the supervision of the director, to supervise the establishment of and oversee the operation of a unified system of mental health services including, but not restricted to, the New Hampshire hospital and community mental health programs; and

II. To assist the director in such other manner as the director deems appropriate.

126-D:8 Deputy Director for Developmental Services; Duties. Duties of the deputy director for developmental services shall be:

I. Under the supervision of the director, to supervise the establishment of and oversee the operation of a unified system of services for developmentally disabled persons including, but not restricted to, the Laconia state school and training center, community development programs, and sheltered workshops; and

II. To assist the director in such other manner as the director deems appropriate.

Amend RSA 126-D as inserted by section 1 of the bill by inserting after RSA 126-D:8 the following new section, and renumbering the original sections 9-41 to read as 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 and 41 respectively.

126-D:9 Salaries of Director; Deputy Directors. The annual salaries of the director and deputy directors shall be prescribed by RSA 94:1-6.

Amend RSA 126-D:12 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

126-D:12 Superintendent of New Hampshire Hospital. The director of the division of mental health and developmental services, after consultation with the advisory commission and the commissioner, shall nominate one or more persons duly qualified through training or experience to serve as superintendent of the New Hampshire hospital. From those nominated the governor and council shall appoint a superintendent who shall serve for a term of 4 years and until his successor is appointed and qualified. Any vacancy shall be

filled for the full four year term in the same manner as the original appointment. Subject to the supervision of the deputy director for mental health services, the superintendent shall be responsible for the administrative and executive direction of New Hampshire hospital. The provisions of RSA 21:33-a shall not apply to appointments made under this section.

Amend RSA 126-D:19 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

126-D:19 Rules. The director may make such regulations for the management of the New Hampshire hospital and the Laconia state school and training center and all persons connected therewith, and for the admission and care of patients and may alter the same from time to time, as convenience may require.

Amend RSA 126-D:23-24 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

126-D:23 New Hampshire Hospital Land. The provisions of RSA 126-D:22 shall not apply to acquisition of land for a highway right of way over land of the New Hampshire hospital in connection with Concord-Bow-Hopkinton section of a federal interstate highway running from Concord to Lebanon.

126-D:24 Land for Everett Turnpike and Interstate Route 89 Improvements. The provisions of RSA 126-D:22 shall not apply to acquisition of land for right of way over land of the New Hampshire hospital in connection with the widening of and improvements to the Everett Turnpike and Interstate Route 89.

Amend RSA 126-D:38 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

126-D:38 Superintendent of Laconia State School and Training Center. The director of the division of mental health and developmental services, after consultation with the advi-

sory commission and the commissioner, shall nominate one or more persons duly qualified through training or experience to serve as superintendent of Laconia state school and training center. From those nominated, the governor and council shall appoint a superintendent who shall serve for a term of 4 years and until his successor is appointed and qualified. Any vacancy shall be filled for the full 4-year term in the same manner as the original appointment. Subject to the supervision of the deputy director for developmental services, the superintendent shall be responsible for the administration and executive director of the Laconia state school and training center. The provisions of RSA 21:33-a shall not apply to appointments made under this section.

Amend RSA 126-D:40-41 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

126-D:40 Assistant Superintendent for Administration and Support; Laconia state school and training center. The superintendent of Laconia state school and training center, subject to the approval of the director, shall appoint an assistant superintendent for administration and support. The superintendent with the approval of the director, shall prescribe the qualifications and duties of the assistant superintendent for administration and support. The assistant superintendent for administration and support shall serve for a term of 4 years and until his successor is appointed and qualified. Any vacancy shall be filled for the full 4-year term in the same manner as the original appointment. In the absence or disability of the superintendent, the said assistant superintendent for administration and support shall have all the powers and duties of the superintendent. The provisions of RSA 21:33 shall not apply to appointments made under this section.

126-D:41 Compensation. The annual salaries of the superintendent and assistant superintendents shall be as prescribed by RSA 94:1-6.

Amend RSA 126-D as inserted by section 1 of the bill by inserting after RSA 126-D:41 the following new sections:

126-D:42 Duties of Director of Mental Health and De-



velopmental Services. In addition to other powers and duties, the director shall be responsible for the planning, development and coordination of all services for prevention, diagnosis, treatment, training, rehabilitation, consultation and education in the areas of mental or developmental disability, including mental retardation, throughout the state, and for a statewide program of community living for mentally ill and developmentally disabled children and adults. The director, with the approval of the commissioner, may make such rules and regulations and assign available staff as he deems appropriate to carry out these provisions.

126-D:43 Duties and Functions of Division. The division shall be responsible for the recruitment, selection, and approval of community living facilities for mentally retarded and mentally ill persons, and for the selection, placement, and supervision of mentally retarded and mentally ill patients in community living facilities throughout the state, said patients being those who no longer need residential care in an institution, but who do not have a suitable facility to which to return, except that children shall be placed in accordance with RSA 170-A, 170-C and and 170-E. It shall have the responsibility of selecting suitable community living facilities with professional understanding and care for this specialized, handicapped population, recognizing that prior to actual placement of such patients, considerable planning is necessary with the patient, hospital staff, the patient's relatives, the community living facility, and the community in which the patient will live. Patients shall be selected for placement in community living facilities only in conjunction with, and at the recommendation of, the professional staffs of the institutions concerned. The office of the director, division of mental health and developmental services, shall have the responsibility for maintaining continuous contacts with the patient, the hospital staff, the patient's relatives, the community living facility and with the community in which the patient will live. The office of the director shall further have the responsibility for supervising the patient in the community living facility through social casework counseling and for eventually recommending either the patient's release from convalescent care status or his return to the institution. It shall establish and maintain close coordination with the institutional and community health, welfare and vocational agencies with a view of promoting the successful treatment and

rehabilitation of the patients placed in community living facilities.

126-D:44 Standards for Community Living Facilities. The division of mental health shall establish standards to be used to determine the eligibility of a facility to function as a community living facility. The selection and approval of community living facilities by the division for the placement of patients shall be based on these standards. The standards to be established hereunder shall take into account both the physical facilities of community living facilities, such as bathrooms, and fire safety, and also the personality characteristics of the community living facility personnel.

126-D:45 Rates for Community Living Facilities. The division of mental health shall establish rates sufficient to provide a reasonable subsistence compatible with decency and health for the payment of room, board and laundry expenses incurred by patients in placement under this program. Payments shall be made directly to the community living facility for each patient. Payments hereunder shall be made monthly through the office of the director, division of mental health, from funds appropriated for this purpose.

126-D:46 Supervision of Patients. Each patient in community living placement shall be under the direct supervision of the division of mental health and developmental services. The division shall have the responsibility to plan for a more permanent living arrangement for the patient in conjunction with other health and welfare resources. The decision regarding a patient's return to either the Laconia state school and training center or to the New Hampshire hospital shall be the responsibility of the institution concerned and the decision for discharge of a patient from convalescent care status shall also be the responsibility of the institution concerned.

126-D:47 Definition. Community living facilities include foster homes, halfway homes or other types of community residential facilities other than the private home of a patient's family or relatives.

Amend RSA 94:1-a as inserted by section 2 of the bill by striking out the line:

Deputy director of division of mental		
health for administration and support	31,000	35,000
and inserting in place thereof the following:		

Deputy director for mental health services	31,000	35,000
Deputy director for developmental services	31,000	35,000

Amend the bill by striking out section 7 and inserting in place thereof the following:

7 Assistant Superintendent for Administration and Support; Laconia State School and Training Center. Notwithstanding the provisions of RSA 126-D:40, as inserted by section 1 of this act, and RSA 21:33-a the assistant superintendent for administration and support of the Laconia state school and training center in office on the effective date of RSA 126-D shall continue in office for a term of 4 years from the effective date of RSA 126-D, subject to the conditions of RSA 126-D:40.

Amend the bill by striking out section 12 and inserting in place thereof the following:

12 Appropriation. There is hereby appropriated to the division of mental health and developmental services in addition to any other appropriation for the fiscal year ending June 30, 1978 and for the fiscal year ending June 30, 1979 for the purposes stated below the following:

Division of Mental Health and Developmental Service:

Administration and Support:

Permanent Personal Services	\$170,465	\$169,737
Salary of Deputy Directors	62,000	64,000
Benefits	34,870	35,061

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Total Administration and Support	\$267,335	\$268,798
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Laconia State School and Training Center:

Professional Care and Treatment:

Assistant Superintendent

Professional Services	\$3,466	\$3,247
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Benefits	520	487
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	\$3,986	\$3,734
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Administration:

Superintendent	\$4,685	\$5,145
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Assistant Superintendent		
Administration and Support	1,717	2,133
Benefits	960	1,092
	<hr/>	<hr/>
	7,362	8,370
	<hr/>	<hr/>
Total Laconia State School and Training Center	11,348	12,104
	<hr/>	<hr/>
Total	\$278,683	\$280,902
Division of Mental Health:		
Office of Community Health Services:		
Permanent Personal Services	(18,206)	(17,532)
Benefits	(2,731)	(2,630)
	<hr/>	<hr/>
	(20,937)	(20,162)
Bureau of Family Care:		
Permanent Personal Services	(15,436)	(14,865)
Benefits	(2,315)	(2,230)
	<hr/>	<hr/>
	(17,751)	(17,095)
Office of Mental Retardation:		
Permanent Personal Services	(35,405)	(34,094)
Benefits	(5,311)	(5,114)
	<hr/>	<hr/>
	(40,716)	(39,208)
New Hampshire Hospital:		
Professional Care and Treatment:		
Permanent Personal Services 52,889	(68,715)	(72,810)
Unclassified	(54,684)	(56,350)
Benefits	(18,510)	(19,374)
	<hr/>	<hr/>
	(141,909)	(148,534)
Laconia State School:		
Professional Care and Treatment:		
Permanent Personal Services	(32,123)	(31,505)
Benefits	(4,818)	(4,726)
	<hr/>	<hr/>
	(36,941)	(36,231)



## Training and Development:

Permanent Personal Services	( 17,764)( 17,106)
Benefits	( 2,665)( 2,566)
	<hr/>
	( 20,429)( 19,672)
	(278,683)(280,902)

The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amend the bill by inserting after section 14, V the following new paragraphs:

VI. RSA 126-A:35-42 relative to the office of mental retardation and bureau of family care.

VII. The provisions of an act of the 1977 general court entitled "An Act establishing a bureau of community living in the office of the director of mental health."

Amend the bill by striking out section 16 and inserting in place thereof the following:

16 Effective Date:

I. Section 14, V of this act shall take effect July 1, 1978.

II. Section 14 VII of this act shall take effect June 30, 1977.

III. The remainder of this act shall take effect July 1, 1977.

Sen. TROWBRIDGE: This bill starts on page 20 and really this can be simplified. The original bill submitted by Dr. Miller to reorganize the division of mental health called for two deputies and having the two deputies and the Laconia state school people and breaking out the Division of Mental Health into truly mental health over here, and disabling disabilities on the other side. Moreorless like the retarded. You would have sufficient budgets and responses in both areas. The House, we think, got a little mad at Dr. Miller because he was not going along with the forensic unit as per plan. So they cut him back to one budget. Sounds alright. Other people have one deputy but it ruined the whole purpose of the bill. The bill was to separate out the two sides of his responsibilities

so he could say to one, okay you're on the mental health of New Hampshire hospital psychiatry, and on the other one, disabilities, which would be moreorless Laconia state school and the New Hope schools and these kind of retarded programs for the retarded. When we received it, we talked to Dr. Miller, we heard the testimony and it seemed very obvious that we should go back to the original bill with a few amendments that had come along and seemed good and the amendment to 608, by and large, 99%, puts back together Dr. Miller's original scheme. So that is what you are finding here, funding that he has done internally by cutting out subdivisions and putting another, it is all taken care of and it is all acknowledged in the budget so it is all set to go if you will only approve it.

Amendment adopted. Ordered to third reading.

HB 433, to create and provide police powers for the security forces at certain state institutions. Ought to pass with amendment. Sen. Trowbridge for the committee.

#### Amendment to HB 433

Amend section 1 of the bill by striking out RSA 135:43 as inserted by said bill section.

Amend section 2 of the bill by striking out RSA 126-A:30-c, as inserted by said bill section.

Amend section 4 of the bill by striking out RSA 8:30-c, as inserted by said bill section.

Amend section 5 of the bill by striking out RSA 188-A:3-c, as inserted by said bill section.

Amend RSA 622:38, as inserted by section 3 of the bill, by striking out same and inserting in place thereof the following:

622:38 State Prison Security Force. The warden of the New Hampshire state prison is authorized to organize a prison security force, consisting of members of the prison's correctional line personnel, for the purpose of patrolling the prison's buildings, roads, and grounds and providing for gen-

eral security at the prison provided that no individual of the correctional line personnel shall spend more than 10 percent of his work time on patrol duty authorized hereby. The prison security force shall be under the control of and responsible to the warden of the prison.

Amend the bill by striking out all after section 5 and inserting in place thereof the following:

6 Exclusion from Group II Specified. Amend RSA 100-A:1 by inserting after paragraph VII the following new paragraph:

VII-a. Notwithstanding the provisions of paragraph VII of this section, no security officer appointed pursuant to RSA 8:30-a, RSA 126-A:30-a, RSA 135:41 or RSA 188-A:3-a shall be construed to be a group II member of the retirement system.

7 Effective Date. This act shall take effect upon its passage.

Sen. TROWBRIDGE: All the security forces at the hospital and the Laconia state school were given police powers. It then had a disclaimer in this thing that said nobody will get into group 2. But it did show that the security guards at Laconia would be given police powers. We thought here is one of those things where no one consulted those people as to whether they want police powers and 2) as soon as they get police powers there will be no question that the state employees will come in saying it is an inequity; they have the same powers as the state police. They should be in group 2. Regardless whether we say group 2, does not apply in this bill. By next session they will be there. We did feel that the security force at the prison was an entirely different matter. So you will see in the amendment that the security force at the prison is included, given police powers and they will be taken care of. The amendment cuts it down to the prison security forces which we think are legitimately okay. That is what we did.

Amendment adopted. Ordered to third reading.

HB 96, increasing the appropriation for regional vocational education centers. Ought to pass with amendment. Sen. Trowbridge for the committee.

## Amendment to HB 96

Amend the title of the bill by striking out same and inserting in place thereof the following:

## AN ACT

increasing the appropriation for regional vocational educational centers; and relative to transportation costs for new regional vocational centers.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Authorized Appropriation Increased. Amend RSA 188-E:10 (supp) as inserted by 1973, 567:1 as amended by striking out said section and inserting in place thereof the following:

188-E:10 Construction Appropriation. The treasurer of the state of New Hampshire is hereby authorized to make available to the state board of education for purposes of constructing regional vocational education centers an amount not to exceed \$17,000,000. Authorization for expenditure of such funds shall be made by the state department of education to the treasurer in accordance with this chapter. The treasurer is authorized to issue bonds in accordance with the provisions of RSA 6-A for the purpose of funding this appropriation.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Transportation Costs. Amend RSA 188-E:9 (supp) as inserted by 1973, 567:1 by striking out said section and inserting in place thereof the following:

188-E:9 Payment of Tuition and Transportation Funds. Subject to paragraph IV:

I. The state shall pay the receiving district for its portion of the tuition charge upon receipt by the state department of education of forms showing the charges as requested by them. Payment of transportation shall be made to the sending district by the state department of education upon certification of payment or liability of payment of transportation charges on forms prescribed by the department.

II. If the appropriation to the state department of education for tuition and transportation exceeds the actual cost during any given fiscal year, the excess funds will be distributed to the regional centers on the basis of the number of regional vocational education students enrolled in the center programs compared to the total number of regional vocational students in the state for that fiscal year. Such excess funds made available to the regional school shall be used as a special allocation



for the upgrading of the regional vocational program. The state board of education may carry over any excess funds in one fiscal year to the following fiscal year for tuition and transportation to supplement that year's appropriation should a shortage of tuition and transportation funds appear to be imminent due to expansion of programs. If by November first of the subsequent year it appears no such deficiency is imminent, the previous year's balance shall be distributed as indicated in this section, but in no case shall this amount distributed exceed \$10 per student attending, and the balance shall lapse.

III. If the funds appropriated are inadequate to pay the total cost of tuition and transportation, both tuition and transportation payments will be reduced on a prorated basis.

IV. Effective July 1, 1977 no contract with a new area vocational education center shall guarantee transportation costs under this chapter.

3 Effective Date. This act shall take effect upon its passage.

Sen. TROWBRIDGE: This is the vocational center program. As you will recall, it started out at \$3 million last session we got it off to \$9 million and under that umbrella we did Keene and Nashua. The State plan, the board that is supposed to be deciding on who gets the next center, depends on the funding of this bill. This would bring it up to \$17 million total; from 9 to 17 is the authorized amount. Originally in the bill when it came over from the House it had been amended and appropriated that it shall be for Manchester and Exeter. All the testimony that we received in the Senate Finance committee was that it was not right to specify the place. That the process of submitting the plan and being ready and doing the thing was to be held so that Conway wasn't out and no one was guaranteed a place in the sun by legislation. The group from Exeter agreed that it should not be specified, the people from Manchester agreed that it should not be specified although they would love it. They agreed way down deep that if they don't qualify there is something wrong with the system in that they are the biggest city in the state. The only real decision that we had to make was whether or not we had to go for \$24 million as the ceiling on this. We then had this problem that you have heard about which is the funding on the transportation and the tuition charges of the schools. That is mounting to the point where it is costing \$600,000 per year and if all of these schools get in place it

will take up the entire sweepstakes fund, \$25 million, it would be high. So we thought we should not go any further until this is resolved. What you are going to do about transportation and tuition—because if that is going to happen you have to realize that you are walking into a great big program that is as big as foundation aid for the rest of them. So that is why we did not extend it from 17 to 24 and left it at this level. It is a big and expensive program.

Sen. PRESTON: Those that have been through that site selection review and so forth and designated and have a first priority such as Exeter does, this will in no way diminish them in being the next site?

Sen. TROWBRIDGE: No, what we are saying is that the process that has been put in place for the selection shall be followed. That is what we are saying and however that comes out—everybody seems to agree that the department of education has done a good job in being fair and impartial. That is what we want.

Sen. SANBORN: I speak in favor of the amendment and of the bill. Basically on the collection process that is presently carried out for these vocational centers, it was my pleasure after the last session to serve on that committee. About 20 people on that committee and they did a very thorough job. It started early in the fall and it was late spring before we came to a final decision which we gave to the state board of education our recommendations as to who should have those centers. After having served on that committee one time for the selection of a center and going through the process which we went through, I highly recommend that we delete specifying any as the amendment does. There were people from throughout the state and many interest in education and I might say that there were 2 or 3 people from Manchester that served on that committee. They did not rate Manchester's application any higher than I did.

Amendment adopted. Ordered to third reading.

HB 597, relative to the application and expenditures of federal funds and making an appropriation therefor. Ought to pass with amendment. Sen. Trowbridge for the committee.

Amendment to HB 597

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 124 the following new chapter:

## CHAPTER 124-A

### Federal Funds

124-A:1 Declaration of Purpose. It is the purpose of this chapter to clarify the method of applying for, receiving and accounting for federal funds by the state so as to assure that state purposes are served and legislative priorities are adhered to by the acceptance and use of such funds.

124-A:2 Definitions. As used in this chapter the following terms shall have the following meanings unless the context clearly requires otherwise:

I. "Agency" means all state departments, divisions, offices, institutions, boards, commissions, or other entities of the executive, but shall not include the judicial or legislative branches, the university of New Hampshire system, nor the department of employment security.

II. "Federal funds" means any financial assistance, grants-in-aid, or other federal appropriation or services made available to the state whether a loan, subsidy, augmentation, reimbursement or other form to assist state activities, but shall not include funds made available to the state under the provisions of chapters 1, 2, and 3 of title 23 of the United States Code or Public Law 93-647, title XX.

III. "Emergency funds" means federal funds granted to or available to the state for any emergency or disaster as defined by federal authority awarding said funds or necessary to prevent the loss of an existing program as determined by the governor and council.

124-A:3 Application for Federal Funds. No state agency may apply for federal funds without first submitting the application to the comptroller who shall index and keep a record of all such applications and shall insure they comply with the requirements of RSA 124-A:4.

124-A:4 Form of Application. All applications for federal funds filed with the comptroller pursuant to RSA 124-A:3 shall contain the following information regarding the programs to be funded:

I. An estimate of the long-term costs directly related to the programs to be funded.

II. An estimate of all indirect costs and other non-monetary consequences to both the state and any political subdivision.

III. A statement indicating whether programs substantially the same as those to be financed have previously been rejected by the general court.

IV. A concise statement of the need for the programs to be financed and the justification for federally funding them.

V. A program budget.

124-A:5 Receipt of Federal Funds During Session. Whenever the general court is in regular session, no agency shall receive any federal funds not previously authorized by the governor and council or by prior legislative action except by requesting specific legislative authority. Such request shall be in the form of a special bill or a budget item presented to the senate finance committee or the house appropriations committee.

124-A:6 Receipt During Interim. Whenever the general court is not in regular session, the governor and council may authorize any agency to receive federal funds pursuant to this chapter, provided that any such receipt shall be limited so that the funds received shall not obligate the state to any program beyond 90 days after the commencement of the next regular session of the general court; provided, further, that except in cases of emergency funds, the authorization of the governor and council shall require the concurrence of the fiscal committee of the general court. Such authorization if granted shall include authority for the agency to take all necessary action to administer the federal funds including but not limited to authority to execute documents and agreements and when required as a condition to the receipt of such federal funds, to enter an indemnification agreement in the name of the state with and for the benefit of the United States.

124-A:7 Designation of Agency. Whenever any agency requests authorization to receive federal funds, the governor and council may from time to time designate that agency or such other persons or agencies in the state government, as they may deem in the best interests of the state, as the proper persons or agencies to receive and administer said federal funds; provided, however, that whenever said federal funds relate to a program which falls within the area of services provided by an existing agency of the state, the governor and council shall designate said agency as the agency to receive and administer the federal funds; provided, further, that if said funds relate to a program which falls within the



area of services covered by 2 or more agencies, then the governor and council shall designate one of said agencies as the agency to receive and administer said funds.

124-A:8 Treasurer to Receive; Disburse.

I. The state treasurer is directed to receive all funds granted by the United States, or by any agency thereof, to the state or any agency and to hold all such funds separate from all other funds of the state. Such funds shall be disbursed by the treasurer upon warrants drawn by the governor for the purpose for which such federal funds are granted.

II. Whenever federal funds have been appropriated by the general court or approved by the governor and council and, when required, by the fiscal committee, and final agreements have been executed by all parties, the treasurer may disburse state funds upon warrants drawn by the governor in anticipation of federal funds, provided that the state funds so disbursed shall be reimbursed upon receipt of the federal funds.

124-A:9 Certain Transfers Permitted. The comptroller is hereby authorized to effect such transfers of federal funds between state agencies as may be permitted by the laws of the United States, in order to reimburse any agency of the state for services performed for, or facilities made available to, another state agency in the administration of federal funds, facilities, grants-in-aid, or other federal appropriations or services made available to state activities.

124-A:10 Grant Reduction. Whenever any application for federal funds by any agency provides for a match or expenditure of state funds and whenever any appropriation for any agency by the general court includes an estimated receipt of federal funds and the federal funds received, whether by direct grant from a federal agency or by a grant or pass through of federal funds from a state agency, is less than estimated, the total application or appropriation shall be reduced by the amount of reduction in federal estimates and the applicable state matching funds. If the applicable state matching funds are included in an appropriation other than the appropriation in which the federal funds are estimated, the appropriation reductions shall be made where applicable. The provisions of this section shall also apply to any position funded in full or in part from federal funds and if federal funds are not available to fund any said position or positions as budgeted, said positions shall be abolished forthwith. The

provisions of this section shall not apply to revenue sharing funds.

124-A:11 Grant Increases. Whenever additional federal funds become available for a program for which an agency has been authorized to receive federal funds by the governor and council or by the general court, said agency may receive and administer such additional funds without further approval of the governor and council or the general court; provided, that such receipt shall not obligate the state to extend any program not previously approved by the general court beyond 90 days after the commencement of the next regular session of the general court.

124-A:12 Audit Requirement. All applications for federal funds by any agency shall include provisions and funding for audits of the program whenever such audits are required by the federal government which shall be the responsibility of the agency administering the federal funds. Such provisions shall require that the audits be done by auditors meeting federal standards and shall include program and performance aspects. Such audits shall be done according to standards for audits of governmental organization programs, activities and function as published by the comptroller general of the United States.

124-A:13 Fiscal Administration of Grants. The comptroller shall have the following powers and duties;

I. To establish uniform rules and regulations pursuant to RSA 541-A for agencies to follow in applying for, receiving and administering federal funds including but not limited to a grant accounting system incorporating generally accepted accounting principles and adequate internal controls in conformity with federal requirements;

II. To act as a clearing house for grantee agency questions and a source of assistance when problems arise;

III. To conduct conferences at the start of each program with grantee agency officials to review the fiscal administration of the program;

IV. To maintain a central register of requested and authorized programs by agency; and

V. To ensure that all applications for federal funds comply with the provisions of this chapter.

124-A:14 Payment of Disallowed Expenditures. The comptroller with the approval of the governor and council is hereby authorized to pay from funds appropriated therefor

an expense of any agency incurred in the administration of federal funds, which expense has been disallowed by the federal government provided that said expense does not exceed \$1,000. In the event that an expense in excess of \$1,000 is incurred by any agency in the administration of federal funds and is disallowed by the federal government, such expense shall be presented to the next session of the general court for approval prior to payment thereof.

124-A:15 Consultant Reports. Whenever any program involving federal funds provides for the employment of or contracting with a consultant, 10 percent of the amounts to be paid to the consultant shall be withheld until a report by the consultant has been accepted by the agency administering the federal funds. Such report shall be reviewed by the administering agency which shall make a written evaluation of the consultant's report and recommendations. A copy of the consultant's report and the agency's evaluation thereof shall be filed with the comptroller and the legislative budget assistant.

124-A:16 Sub-Grants; Approval, Supervision.

I. Whenever the receipt of any federal funds provides for the pass through of federal funds to sub-grantee organizations or individuals, approval of the governor and council of the sub-grant shall be required unless the sub-grant was included in action taken by the general court authorizing the receipt of the federal funds.

II. The comptroller shall supervise all sub-grants and may make such rules and regulations, subject to approval of the governor and council, for the administration of such sub-grants as he shall deem necessary. Said rules shall be issued in accordance with RSA 541-A.

III. In addition to any other requirements imposed by or pursuant to rules adopted under paragraph II, all sub-grants shall include provision and funding for audits whenever such audits are required by the federal government which shall be the responsibility of the sub-grantee. Such audits shall be conducted by auditors meeting federal standards and shall include program and performance aspects. Such audits shall be done according to standards for audits of governmental organizations, programs, activities, and functions as published by the comptroller general of the United States. A copy of all such audits shall be filed with the comptroller and the legislative budget assistant.

IV. All sub-grantees shall be liable for disallowed expenditures resulting from their negligence or noncompliance with the terms of the sub-grant.

124-A:17 Effect on Other Law. After the adoption of this chapter, its provisions shall govern the application of all agencies for federal funds except in the cases of agencies specifically exempted from the provisions hereof and all conflicts between the provisions of this chapter and those of other statutes shall be construed in favor of the provision of this chapter.

#### Miscellaneous Provisions

124-A:18 Debt Limitations. Cities, towns, school districts, precincts, and counties, upon the approval of the tax commission, may make application to the governor and council for authority to exceed existing debt limitations for the purpose of taking advantage of such grants or aid as may be offered them by the United States government. The governor and council may grant to cities, towns, school districts, precincts, and counties authority to exceed existing debt limitations to such extent and in such amounts as they may deem prudent and advisable. In granting such authority the governor and council may prescribe the terms and conditions upon which such debt limitations may be exceeded.

124-A:19 Authorizing Payment of Relocation Assistance.

I. If any department, agency or instrumentality of the state or of a political subdivision of the state acquires any real property through condemnation proceedings brought under the power of eminent domain or in any other manner and the use of federal funds is involved and to qualify for such funds the provisions of the federal "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970", as amended must be complied with, the department, agency or instrumentality is authorized and empowered to make payments for such reasonable costs in relocation assistance as is required by said federal act.

II. Such powers for compliance shall be deemed to have been possessed by any department, agency or instrumentality of the state or a political subdivision of the state as of July 1, 1972 solely to the extent necessary to be eligible for federal funds under said "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970".

124-A:19 Recovery of Indirect Costs Required. Each state agency receiving a federal grant or grants shall compute an



agency indirect cost rate for each grant as provided by federal regulation and shall apply the same to each grant it receives. Any state agency making grants of federal funds to any other state agency, either directly or as a pass through, shall fund the indirect costs for each such grant in the amount of the indirect costs of the state agency to which it has granted the funds in accordance with the indirect cost rate computed as provided by federal regulations by the receiving state agency. All such indirect costs received shall accrue to the state general fund and shall not be available for expenditure by the agency, except that in the case of the departments of public works and highways and fish and game that proportion of any interest cost recovery which represents costs of either of said departments as opposed to the statewide overhead cost portion of the rate shall accrue to the highway fund or the fish and game fund as applicable.

2 Appropriation. There is hereby appropriated to be expended by the comptroller pursuant to the provisions of RSA 124-A:14 the sum of \$10,000 for fiscal year 1978 and the sum of \$10,000 for fiscal year 1979. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

3 Appropriation. There is hereby appropriated to be expended by the comptroller for implementation of this act the sum of \$40,000 for fiscal year 1978 and the sum of \$40,000 for fiscal year 1979. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

#### 4 Repeal.

I. RSA 4:12-a, III relative to the coordinator of federal funds receiving accounts from state departments is hereby repealed.

II. RSA 124 relative to federal aid is hereby repealed.

5 Fiscal Committee. Amend RSA 14:30-a as inserted by 1965, 239:19 by striking out said section and inserting in place thereof the following:

14:30-a Committee. There is hereby established a fiscal committee of the general court. Said committee shall consist of 10 members, 5 shall be members of the house of representatives appointed by the speaker; one of whom shall be the chairman of the house appropriations committee, 5 shall be members of the senate 2 of whom shall be appointed by the president, one of whom shall be chairman of the senate fi-

nance committee, and 2 of whom shall be members of the senate finance committee appointed by the chairman of senate finance. The chairmanship of said committee shall alternate biennially between the senate finance chairman and house appropriations chairman provided that the chairman for the 1977-1978 biennium shall be the senate finance committee chairman. Said committee shall while the general court is in session and during the interim consult with, assist, advise, and supervise the work of the legislative budget assistant, and may at its discretion investigate and consider any matter relative to the appropriations, expenditures, finances, revenues or any of the fiscal matters of the state. The members shall be paid the regular legislative mileage during the interim while engaged in their work as members of said committee.

6 Effective Date. This act shall take effect 60 days after its passage.

Sen. TROWBRIDGE: The basic thought of 597 was brought up by the governor in his original budget message, namely that there should be a way for the legislature to get a handle on the federal funds that come into the State which we do not now have. As you know there were some 900 positions in state government that have been created one way or another by federal funds for which the Finance committee and the House Appropriation committee have never been consulted. That is over a period of time. 597 came over from the House in a position where the House had said broadly, no federal funds shall be adopted at all unless it goes through the Fiscal committee and quarterly through the full general court. It would have to come into the full House and Senate. That was obviously too restrictive. We have to make provisions for the normal stuff that we receive from welfare and from other sources. Nobody is trying to sit there and plug up state government and nobody really has to come back all the time to approve this. What you have to do is have a way of saying that no and making it stick. If somebody comes in with a big boondoggle federal proposal—so we have gone back to the original draft which was done with Mr. Bigelow of the Governor's Office and has been worked out with Arthur Drake who is really concerned with this business, he gets more federal funds than anyone through the department of welfare. It worked back that way into this bill with the fiscal

administration of grants, all the language in here is the way that it started out and we have a small appropriation here of \$40,000 to keep track in the controller's office of all this kind of stuff. It does help us a great deal in recovering indirect costs from the federal government because we can make sure that we know as these funds come in, how much overhead we are going to be putting on and it makes it clear that we can through the Fiscal committee and others we can grab hold and have to approve of the funds. I think it is now in shape that the Governor is satisfied; I certainly am satisfied and I think the House should be satisfied cause it goes a long way towards the problem that we know is there.

Sen. FOLEY: Senator Trowbridge, would you mind speaking to the coordinator of federal funds as far as this bill goes, what does this do to his job?

Sen. TROWBRIDGE: As far as I know there is no difference, no change. His job is to get agencies to get their grants in, to get them so they are able to receive the federal funds. All it is is when they make application now there is someone who knows what they are up to so that we don't all of a sudden find something dropping into our lap that we never even heard of. That is where the Fiscal committee comes into play.

Sen. MONIER: On page 37, Senator Trowbridge, halfway down, paragraph 4, it says repeal. I was going to ask the question Senator Foley did and I respect your answer but I just want to know what that means. Does that mean accountability, or knowledge of it or what?

Sen. TROWBRIDGE: That is part of the section that would say he can receive anything; it doesn't take his job out or anything. Now he can't receive anything; he receives it subject to this bill. This is the whole point of the bill. Before, anything that would come was just received, turn it over to the controller. Now it goes through a process.

Sen. MONIER: I think we are talking two different things and that is why I am asking. What I am asking, is that at the present time, there is a system whereby the agencies report to him by computer checkout and he keeps a computer printout of all federal grants and so forth. Is he still going to be allowed to do that?

Sen. TROWBRIDGE: Oh yes, there is no problem with that. The only thing is that he can't any longer, individually,

just say thank you for the million and I am sending it over here to welfare.

Sen. MONIER: I agree with that I merely want to know that you have one place to go and find out what you need to know.

Amendment adopted.

Sen. Downing moved a further amendment to HB 597.

#### Amendment to HB 597

Amend RSA 14:30-a as inserted by section 5 of the bill by striking out the same and inserting in place thereof the following:

14:30-a Committee. There is hereby established a fiscal committee of the general court. Said committee shall consist of 10 members. Five shall be members of the house of representatives, appointed as follows: 2 shall be appointed by the speaker one of which shall be a member of the minority party, one shall be the chairman of the house appropriations committee and 2 shall be members of the house appropriations committee appointed by the chairman of appropriations of which one shall be a member of the minority party. Five shall be members of the senate, appointed as follows: 2 shall be appointed by the president of which one shall be of the minority party, one shall be the chairman of the senate finance committee and 2 shall be members of the senate finance committee appointed by the chairman of senate finance of which one shall be a member of the minority party. Neither the president of the senate nor speaker of the house shall be a member of the fiscal committee. The chairmanship of said committee shall alternate biennially between the senate finance chairman and the house appropriation chairman, provided that the chairman for the 1977-1978 biennium shall be the senate finance committee chairman. Said committee shall while the general court is in session and during the interim consult with, assist, advise, and supervise the work of the legislative budget assistant, and may at its discretion investigate and consider any matter relative to the appropriations, expenditures, finances, revenues or any of the fiscal matters of the state. The members shall be paid the



regular legislative mileage during the interim while engaged in their work as members of said committee.

Sen. DOWNING: This amendment deals strictly with section 5 of the bill and it is on page 35 of the bill if you are looking at the amendment. It is the makeup of the fiscal committee. All this amendment does is have the speaker appoint in the same manner that the president appoints. We have just established that we will have equal membership by adopting the amendment you just adopted. This deals with the appointments would be handled in the same manner in the house as they are in the house, two by the speaker and three by the chairman of appropriations; two by the president and three by the chairman of finance including his own of which he is automatically a member of it. It would also preclude the speaker or the president from being a member of that committee and it establishes the membership of the minority. I urge you adopt the amendment.

Amendment adopted. Ordered to third reading.

HB 559, relative to the reorganization of the New Hampshire transportation authority and prohibiting the removal of railroad track related structures. Refer to Interim—Study Transportation Committee. Sen. Rock for the committee.

### SUSPENSION OF RULES

Sen. Rock moved that the rules of the Senate be so far suspended as to allow that the words "ought to pass with amendment" be substituted for the words "refer to interim study."

Adopted by a 2/3 vote.

### Floor Amendment to HB 559

Amend the bill by striking out section 9 and inserting in place thereof the following;

9 Effective Date. Sections 1 through 7 of this act shall take effect July 1, 1979; and section 8 of this act shall take effect upon its passage.

Sen. ROCK: You remember that we deliberated on this bill and accepted amendment the other night from Senator Poulsen. We have done some research trying to find out really what has been attempted to be accomplished and there is some difficulty in reaching that point. However, what we would like to recommend is that that amendment which is now being passed out, it does only one thing. It changes the effective date and we are changing the effective date so we can get this into a committee of conference so we can find out what the real meaning of the bill was and whether or not the number of commissioners is acceptable to all people and whether or not the makeup of the proposed committee is acceptable to all. I urge the adoption of the change of the effective date which is the amendment and let us get it into a committee of conference.

Amendment adopted. Ordered to third reading.

Sen. Trowbridge moved that HB 1000 be taken from the table.

Adopted.

HB 1000, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 1978 and June 30, 1979.

Question of the committee amendment.

Please see "Supplement to Senate Journal; June 13, 1977; Senate Finance's Proposed Amendment to HB 1000."

Amendment adopted.

Sen. Monier moved a further amendment to HB 1000.

#### Amendment to HB 1000

Amend section 1 of the bill by inserting after PAU 05, 03, 01 the following:

02 State Health Planning and Development		
*11 Salary of Director	20,894	22,793
20 Current expenses	19,000	21,500
30 Equipment	3,000	100
50 Other Personal Services	75,854	86,399

62 Benefits	14,512	16,379
70 In-State Travel	8,000	9,000
80 Out-of-state Travel	1,500	1,500
90 Other Expenditures	7,500	7,500
Total	150,260	165,171
Estimated Source of Funds		
Federal	112,695	123,878
25% General fund	37,565	41,293
Total	150,260	165,171

\*Office of Health Planning and Development.

I. Amend RSA 126-A by inserting after section 43 the following new section:

126-A:44 State Health Planning and Development Agency. There shall be a director of the agency who shall be appointed by governor and council upon recommendation of the commissioner of health and welfare. The salary of the director shall be as established in RSA 94:1-4. The director shall appoint, with the approval of the commissioner of health and welfare and within available funds, such other professional and clerical staff as shall be necessary to carry out the responsibilities of the agencies.

II. Amend RSA 94:1-a (supp) as amended by inserting in proper alphabetical order the following:

Director of health planning and development 22,000 27,500

Effective Date. This act shall take effect July 1, 1977.

Sen. MONIER: This amendment asks for \$78,858 of State funds for a total of \$286,583 from Federal funds. It asks to be put into the budget because it was a budget cost that was on a HB 602 which was killed in my committee dealing with comprehensive health planning. It was sent over 4 days ago; it is not in the budget and I offer it as an amendment at this time. All that is there is the budget and the position of the director in the same fashion as the executive order now holds.

Sen. TROWBRIDGE: Senator Monier since all of this is in HB 602, why did your committee not bring out HB 602?

Sen. MONIER: We have debated why committees don't bring out bills. But in this particular case I will answer because I am the one that made the motion to kill it in commit-

tee. And the answer is very simple. For two and a half years there have been people working in ad hoc committees at no cost; I was one of them; to establish a proper state plan to be authorized and to meet the new public law under health planning. That was accomplished, the plan was sent in, and it was accepted by the health and welfare agency, both in Boston and in Washington. When it came back and when it was resolved, an executive order was established and in short all the work had been done to accomplish this except for the funding of the budget. In this particular case the budget was sent by Mr. Drake I believe from Health and Welfare because it is now under commissioner Whalen where it belongs. For some reason or other which I suspect has other motivations besides budgeting, the budget was tacked onto a separate bill which came back with changes and requiring changes to work already accomplished. That was protested both by the governor's office, by myself and by many others who have worked on it with many long hours including the ad hoc committees. And it was taken by the Shick committee that is now in existence. It was not paid any attention to because there was some interest in these people who had sponsored 602 who were working with and for some reason or other came over to me the simplest way to do it was to kill it and I did.

Sen. TROWBRIDGE: What were the provisions of HB 602 other than the fact that they may have made some changes. There must have been something else there.

Sen. MONIER: It is more than that they made changes. It is also provided that we go back through a whole series of procedures which are lengthy and complicated, took about 8 months and would have put the work down the drain.

Sen. TROWBRIDGE: Did it not also specify how those health planning funds would be channeled out to the state?

Sen. MONIER: I think they did but that is in accordance with the plan and it is already on the books. There wasn't any change to that. The change was procedural and administrative. It would have gone through the same thing that had already been done. One example that I think is important to the Senate—there were 29 people put on the Shick, which was the agreed upon thing in the plan. Of that 68 people were nominated by the HSA's and their local regional things for I think 18 positions. That work in process took about 4 weeks of work, of volunteer people plus the director who was on a



grant to accomplish and to bring by a compromise. It would have had to been gone through all over again. There was absolutely no reason for it except from a personal opinion. In many cases there was an objection to the fact that there was not more than 29; there were 3 attempts that we know of to have had it enlarged to 29. I am not going to argue as to whether or not this should have been debated on the senate floor. It is not debated on the senate floor. The thing that I am trying to make certain is done and is proper procedure was followed on. We had that debate two or three days ago. The thing that was done with it, however, was that because the appropriation should never have been on the bill in the first place. It should have been on the budget and Arthur Drake testified that it ought to have been in the budget. This would not have occurred but since the bill was in committee properly and through proper procedures, now we have this appropriation. The proper place for it was in the budget, that is what the amendment is on.

Sen. TROWBRIDGE: If that is true why didn't someone present this budget to the finance committee?

Sen. MONIER: At the time the committee was doing this, Arthur Drake and I think Charles from the LBA were informed of this and the material was provided to them. They did work up an amendment to the best of my knowledge. Why it was not presented to the Finance Committee. I do not know. It should have been, I requested that it should be and it is now being presented.

Sen. TROWBRIDGE: I am not going to object to this amendment because I agree that this has to go into the budget. But I do thoroughly object to the fact that this thing has been maneuvered when that bill could have come out of committee, amended to whatever Senator Monier wanted in his committee and could have pared it down to the point where it got on this floor and got debated. It is being debated now Senator Monier. And as far as I am concerned this is another sort of subterfuge of the process whereby our committees are not bringing onto the floor substantive matters, they are not bringing it to the Finance Committee. The first anybody sees of it is this little amendment here. I have a strong suspicion that if this goes into this it will go into the conference committee and it is going to come out very much like HB 602. I hope Senator Monier knows that this is exactly where it will be.

Sen. PRESTON: This is not the place to debate this because the chairman of our committee and I have had an understanding of the procedure that he was going to undertake; I voted to get this out of committee. I would just like to read about three paragraphs to point out what was posed to me by Representative Ward and other reps that have had an interest on this. "Killing HB 602 the contents of it, could pose one immediate problem for the state and a long range one. I shall outline the problems as they could severely affect New Hampshire's participation in the health planning process and jeopardize these 80 million in federal funds. In addition the performance of the health planning agency currently constitute under executive order 77-2 has recently been criticized by federal officials. The first problem is simple. Under the federal law the Hill-Burton construction program, currently carried out in the division of public health services must be transferred to the state planning agency. Part of those who propose to kill 602 proposed a transfer program which is statutory authorized under RSA 152. The second problem is more complex but just as vital and must be faced. Within two years New Hampshire must enact a certificate of need law or lose all federal health care funds. HB 533 which would have enacted such a program has been sent to an interim study already for the house Health and Welfare committee. In the last week the state health planning agency has come under strong criticize from the federal regional officials for simple violations of review procedure. It is clear that proper overview of this agency has not been carried out by those responsible for carrying out the law. HB 602 would place this agency under the authority of the commissioner of health and welfare, Robert Whalen and his deputy, Arthur Drake. We know the abilities of these two people and their commitment to high standards and conduct. Under their direction, health planning in this day can be a success. I would remind you that HB 602 provides for a mechanism that our state government traditionally runs by. It places this new agency in an established office with similar responsibilities under the direction of competent people to make it work. You will be asked to commit \$65,000 state funds over the biennium to match \$192,000 in federal funds with no legislative oversight if you kill 602. We feel this is irresponsible and I urge you to get 602 back on the floor." And I read that into

the record only because of the concern expressed by some of those sponsors.

Sen. MONIER: I also have seen representative Ward's letter. Part of the problem of 602 and part of the problem with this whole situation has been as follows. I repeat at having been the first designee of the state on public law and at a later date, sitting on the ad hoc committee and now a member of Shick. In contrast to what it said in the letter the criticism that has come in has been the simple fact that we did not have a proper executive order at the time. That was changed approximately a month and a half ago with the full concurrence of commissioner Whalen and Arthur Drake and it is now under the Health and Welfare Commission. That was point one. Point two is that the amount of funding that was requested earlier in the original plan has been amended to this amount. It is an amount which Arthur Drake and Commissioner Whalen have requested which is different than what was in 602. Point three is that I do not agree, Schick does not agree, the regional Health and Welfare office does not agree, and Washington does not agree that you do need legislation as yet. They are still in the process of rewriting the law. One of the reasons that 527 I believe, was put to interim study was that exact reason at the request of Schick, who held an executive meeting, held a hearing on it and took a vote on it. All of these things were contained in there and making statements that may or may not be true. Legislative oversight is not lost because we do not pass 602. I will be the first one to assist anyone in drafting a bill once we get out of this session and the feds have finally gotten their law on the books and the regulations. You still do not have the final regulations and how to implement this law. I might add the third part of it in terms of criticizing HEW with respect to a decision being made, the criticism was made publicly that the private result of it was that it was done in a perfectly legal fashion. I urge that we just put this in the budget where it belongs at this time.

Amendment adopted.

Sen. Saggiotes moved a further amendment to HB 1000.

Sen. SAGGIOTES: What this amendment does is something that I requested the Finance Committee in executive session to do. That is, not to unclassify the greyhound execu-

tive secretary, executive director and the horseracing executive secretary. What my amendment does is amend HB 1000 so that they become classified employees rather than unclassified. The reason I do this is number one, I feel that once you begin to do this you allow positions such as that to become subject to political pressures and I am sure you understand what can happen in situations like that. I have no personal selfish interest in either one of the two positions. I offered it during executive session and my committee rejected my suggestion. I offered it for what I think is in the best interest of the state of New Hampshire. Now we have two executives of the racing industry in the state of New Hampshire that handle \$40 million in the biennium. In my opinion they have done a very good job over the years. They have had a lot of problems which I feel that they have been able to handle in a very expert manner because of the experience that they have. Another reason that I offer this amendment and I feel that these two positions are very important as far as continuity in our State government and particularly in these areas of racing. I feel once we begin to become political and to begin to unclassify positions that are as important such as these I think we are doing the wrong thing. If I recall correctly during the last session of the legislature, the majority of the Senators here today took that position on a couple of situations. I don't think that I have to refer to them. I know that some of the people who may oppose me on this matter at the present time did take the opposition view two years ago. I feel this is the right way to go. We become political—I think it is wrong.

Sen. TROWBRIDGE: Senator when we had this before the Senate Finance Committee was it not true and I didn't pay too much attention to this bill, I took it from the discussion, that both commissioners were complaining about the fact that their executive directors were not being responsive. That they could tell them to do something and they would never do it. Because they were classified and absolutely secure and no way to be pushed around. That you have a situation with greyhound and harness racing which are touchy situations, where the policy of the commission has to be carried out and if not, they might just as well not be there. Wasn't that the basis under which we put them under the unclassified system, so that they would come up for review every 5 years?



Sen. SAGGIOTES: You're asking me if it was stated in committee that both commissions were saying that their secretaries were unresponsive. The answer to that Senator Trowbridge is no.

Sen. TROWBRIDGE: One commission?

Sen. SAGGIOTES: This is what we were told by a member of the finance committee. I haven't heard that. As a matter of fact as I understand, it was brought to my attention today that one of the horse racing commissioners was very happy in keeping the present individual.

Sen. FENNELLY: I rise in support of the amendment to HB 1000. I do it for many reasons. Basically, in the last session Senator Downing asked me to do an in-depth study of racing in New Hampshire. In the report that I replied to him and it is still my belief that the time has come to have one commission with a director of pari-mutuel betting in the state of New Hampshire. Also in the report we increased the salaries of the commissioners that are more or less part time right now. Now I think that the system under the classified positions are adequate at this time. But I also believe that in the future and maybe in the special session that the time has come like all other states. We are only one of three states left in the nation that has two commissions. Colorado, Florida and New Hampshire. Florida has it for a good reason, they have 17 dog tracks, New Hampshire has only 2½, according to what Belmont does. In that area that time has come for one commission and I think that we should keep these people under classified till the special session or the regular session. The time has come for one director, one commissioner, one director for pari-mutuel betting at a good salary plus 4 to 5 commissioners overseeing him. I support the pending amendment.

Sen. McLAUGHLIN: I also arise in agreement with what Senator Fennelly is saying. I think that what we have done here is to take these gentlemen who in are in a classified position and unclassified them. We understand that they would be more responsive to their commission as they may be. We can call it political or anything you want—anyone who works for the state is in a political situation to a certain extent anyway. I think we have commissioners who are getting not a full time pay, not a full time salary, should have people working for them who are at their beck and call and do things exactly the way that they want and how and when

they want it done. There should be very close coordination between them. It was my feeling along with some other people that if they were unclassified they would be more attentive and more agreeable to work with the commissioners on hand to work with them and get things done when they wanted them done rather than saying heck, I am in a classified position, I can do what I want. I am against the amendment as proposed; I think he has some merit to it but I think we can get a lot more out of these people if they are unclassified.

Sen. SAGGIOTES: Have you been contacted by a member of the horse racing commission in support of my amendment?

Sen. McLAUGHLIN: The basic thought of it, yes.

Sen. SANBORN: Senator Trowbridge as I understand the Saggiotes amendment this makes both of the classified people equal?

Sen. TROWBRIDGE: That's right. Which is what they are now.

Sen. SANBORN: Which would be hardest to get rid of if we went to a single commission, a classified or an unclassified employee?

Sen. TROWBRIDGE: Either way you can do it. I don't really think that is the issue here. You can do it either way.

Sen. Foley moved the previous question.

Adopted.

Sen. Fennelly requested a roll call. Seconded by Sen. Blaisdell.

The following Senators voted yea: Lamontagne, Gardner, Bradley, Saggiotes, Monier, Blaisdell, Keeney, Hancock, Provost, Brown, Fennelly, Downing, Preston, Foley.

The following Senators voted nay: Poulsen, Smith, Bergeron, Trowbridge, Rock, McLaughlin, Sanborn.

14 yeas 7 nays

Floor Amendment to HB 1000

Amend the bill by striking out sections 34 and 44 and renumbering sections 35 through 72 to read as 34, 35, 36, 37,

38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, and 70 respectively.

Amend section 1 of the bill by striking out 02, 10, 12.

Amend section 1 of the bill by striking out 02, 10, 10 and inserting in place thereof the following:

10 Permanent personal services	58,226	57,364
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Amend section 1 of the bill by striking out 02, 12, 12.

Amend section 1 of the bill by inserting after 02, 12, the following:

10 Permanent personal services	13,074	12,590
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Amendment adopted. Ordered to third reading.

Sen. Downing moved that HB 302 be taken from the table. Adopted.

HB 302, to provide for interest on tax refunds for all taxes administered by the department of revenue administration.

Sen. Downing moved an amendment to HB 302.

#### Amendment to HB 302

Amend RSA 71-A:39 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

71-A:39 Interest. Under rules prescribed by the commissioner, interest shall be allowed and paid at the rate of 10% per annum upon any overpayment of taxes administered by the department. No interest shall be allowed or paid on amounts less than \$1.00. If any overpayment of tax administered by the department is refunded within 3 months after the due date or authorized extension date or within 3 months after the return is filed, whichever is later, no interest shall be allowed under this section. Upon certification by the commissioner, the state treasurer shall refund the overpayment with interest from the revenue of the specific tax.

Amendment adopted. Ordered to third reading.

HB 502, making an appropriation for construction of a facility for the criminally insane on the grounds of the New Hampshire hospital. Ought to pass with amendment. Sen. Sanborn for the committee.

Sen. Bradley moved that HB 502 be laid on the table.  
Adopted.

HB 591, providing for the restructuring of the Hooksett liquor stores and making an appropriation therefor and repealing the authorization for an addition to the Concord store. Inexpedient to legislate. Sen. Sanborn for the committee.

Adopted.

HB 270, relative to certain capital improvement appropriations for the aeronautics commission and the water resources board. Ought to pass with amendment. Sen. Sanborn for the committee.

#### Amendment to HB 270

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

relative to certain capital improvement appropriations for the aeronautics commission and the water resources board and the adjutant general.

Amend the bill by striking out section 7 and inserting in place thereof the following:

7 Certain Adjutant General Appropriation of 1975 Extended. The following appropriations to the adjutant general, for the specified capital improvements, shall be available under September 30, 1977: 1975, 505:1, 02, 02, 01, 92.

8 Effective Date.

I. Sections 1, 2, 5, and 6 of this act shall take effect April 1, 1977.



II. Sections 3 and 4 of this act shall take effect upon their passage.

III. Section 7 of this act shall take effect June 30, 1977.

Sen. SANBORN: Basically the only thing the amendment does is extend certain 1975 appropriations of the Adjutant General's office. The reason for the entire bill—this changed the federal appropriation which used to be on a smaller amount back to the states now back to a 90/10 amount and therefore we are getting more money at least all of what we put up to the federal government to help out with the capital improvements under the aeronautical appropriation and the water resources board.

Amendment adopted. Ordered to third reading.

Sen. Saggiotes in the chair.

HB 523, authorizing payment to Merrimack county for services rendered and making an appropriation therefor. Ought to pass with amendment. Sen. Trowbridge for the committee.

Division vote: 11 senators voted yea; 8 senators voted nay.

(Sen. Hancock, Downing, Jacobson, Gardner recorded in opposition to the amendment.)

#### Amendment to HB 523

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Appropriation. There is hereby appropriated the sum of \$175,547 to be paid to Merrimack county for costs in excess of amounts reimbursed by the state incurred by the county in its management of the Eagle Convalescent Center on behalf of the state of New Hampshire from July 1, 1974 to June 30, 1976, pursuant to a request by the state on June 11, 1974. No portion of the appropriation shall be returned, either as a refund or credit for the computation of taxes, to the city of Concord. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Sen. TROWBRIDGE: This is an interesting situation. What happened is the Eagle Hotel was being used as a nursing home and the licensee could not get a license but Merrimack County could. Merrimack County could because it was building a new nursing home therefore it was a viable nursing home and could obtain a waiver of all the deficiencies that were glaring in the Eagle as a health facility. So the Department of Health and Welfare contracted with the county of Merrimack for Merrimack to take over the nursing home facility there. All went well for a while until one day when the fire chief of Concord and on his own authority declared the place a fire trap which he was probably right but he didn't consult with them or anybody. He didn't recognize that it had six months to go in the contract and therefore ordered everybody out. Because it had six months to go in the lease Merrimack county had to pay the lease and had no income coming in from Medicare and those kinds of places and so they lost roughly \$250,000. There is no question that the towns in Merrimack county that are not in Concord are blameless, faultless for doing something to the state and should be paid, because they had to pay the lease. However in the committee in Finance thought it was only appropriate that the state should not have to pay the 30% of the Merrimack county costs that are attributable to Concord and the city thereof who was the one that caused the problem in the first place. Had the fire chief not pulled the plug on them and let them go for six more months then they would have been moved out of that home and into the new nursing home. There would have been no \$250,000 deficit and we just think that everybody has their own games to play but when somebody goes off and arbitrarily and on his own motion, throws out an arrangement that has been made by the federal government, the health and welfare department of this state and Merrimack county that we the state do not owe money back to that facility. So that is why we have cut it down till it is 70% of the original bill leaving the 30% out that would otherwise go to Concord. I know that Rod Tenney and others of Merrimack county that say that there is no way for me to close this out of Concord or this and that but that doesn't impress me. What does impress me is that everybody has to behave themselves and work together and you can't take single handed, arbitrary action. That is what this finance committee is saying. We are not about to pay for that arbi-

trary action. We are willing to pay for New London, Bow, Boscawen and all the other towns whose fire chief did not come in and pull the plug.

Sen. HANCOCK: As you may guess I have a different version of that story. My understanding of the situation is that the Concord police chief did indeed express a concern over the safety of the people in that facility because of the obvious fire hazard. As I understood it, let me read from the Merrimack county board of commissioners. "As a result of concerns expressed by the Concord fire chief in September 1975, the county and the state agreed to discontinue operation on the Eagle as of July 1, 1976 which was the end of the contract date on the basis of the original contract guaranteeing full reimbursement." Now the version of the story which I have is that the fire chief did bring these conditions to the attention of both the state and Merrimack county and that it was the decision of Commissioner Whalen to remove the patients from that facility. I certainly consider that even if the fire chief did unilaterally decide that, I really think that the city of Concord should not be penalized for an action which ultimately was a result of a decision made by the Commissioner of Health and Welfare. I certainly think that this is an unfair treatment of the city of Concord, it is arbitrary, it is high-handed and indeed it is capricious.

Sen. TROWBRIDGE: Yes, but in that thing that you read, it said that they agreed to terminate as of July 1, 1976, did they not?

Sen. HANCOCK: Yes.

Sen. TROWBRIDGE: In fact it was terminated in December of 1975. That is the issue that they did not agree to terminate in December of 75 when they only had six months to go. They did not agree that when the contract period was expired that they would no longer make another contract which is entirely another deal, is it not?

Sen. HANCOCK: I am not really familiar with all the details of it but I really am concerned that the decision was made by the Commissioner of Health and Welfare to pull out.

Sen. TROWBRIDGE: The commissioner decided to pull out when the fire chief revoked the license. He had no particular alternatives to make that decision. In other words, you make the decisions you have to because someone says I have a gun at your head.

Sen. HANCOCK: It was my understanding that that deci-

sion by the fire chief was not that hard and fast and that he did agree that the contract period could be realized.

Sen. TROWBRIDGE: Do you realize that that was not the testimony that we got even from the sponsors of the bill?

Sen. HANCOCK: That was the information that I received from the Merrimack county commissioners.

Sen. JACOBSON: Mr. President, I rise in opposition to the amendment and in favor of the bill as it originally came through. The problem is this that the bill has already been paid and once you start down that question, Concord has already so to speak, paid some and so has every other town. I recognize that there is a problem with respect to what the fire chief did but I don't think that we should retaliate against the entire city of Concord for what may very well have been an error on the part of the fire chief. After all, Concord is made up of 30,000 citizens plus or minus a few hundred. I think that we ought to go for the whole amount and reimburse the county and let the county handle it. I don't feel that we ought to get involved in paying some of the people and not all of the people despite whatever errors have been made.

Amendment adopted. Ordered to third reading.

Sen. Brown moved reconsideration on HB 556.  
Motion failed.

## SUSPENSION OF RULES

Senator Downing moved that the rules of the Senate be so far suspended as to allow all bills be placed on third reading and final passage and that all titles be the same as adopted and that they be passed at the present time.

Adopted.

## Third Reading and Final Passage

HB 575, increasing the appropriation from \$6,000 to \$10,000 for a continuing boat tax fund administered by the department of revenue administration; and relative to the inspection of rental boats.

HB 553, relative to search and rescue operations; estab-



lishing a search and rescue review board and making an appropriation therefor.

HB 596, amending the real estate transfer tax.

HB 870, to provide for the use of interpreters for the deaf for all administrative and judicial proceedings in which deaf persons are involved and relative to hearing dogs.

HB 680, relative to the replacement and road repair of a certain bridge between Walpole, NH and Bellows Falls, Vt.

HB 497, relative to the distribution of dog license fees and making an appropriation therefor.

HB 456, providing for the preparation of an election procedure manual and making an appropriation therefor.

HB 550, relative to agreements with veterinary medical schools to provide education to qualified New Hampshire residents.

HB 232, amending the method of charging boat registration fees; revising the distribution of boat registration fees; requiring the issuance of annual boat number plates and making an appropriation therefor.

HB 93, relative to the licensing of electrologists.

HB 291, making an appropriation to the department of resources and economic development for grants and loans for projects authorized by titles I, II, IV of the Public Works and Economic Development Act of 1965.

HB 410, relative to the competency of persons applying for a hunting license for the first time.

HB 518, relative to retirement benefits for teachers who retired prior to 1957 and relative to retirement credit for William J. Byrne and making an appropriation therefor.

HB 601, providing cost of living increases for all members of the New Hampshire retirement system and relative to the state share of the normal contribution for non state employee members of the New Hampshire retirement system, the firemen's retirement system and the policemen's retirement system.

HB 608, relative to the responsibilities and reorganization of the division of mental health and making an appropriation therefor.

HB 433, to create and provide police powers for the security forces at certain state institutions.

HB 96, increasing the appropriation for regional vocational educational centers; and relative to transportation costs for new regional vocational centers.

HB 597, relative to the application and expenditures of federal funds and making an appropriation therefor.

HB 559, relative to the reorganization of the New Hampshire transportation authority and prohibiting the removal of railroad track related structures.

HB 1000, making appropriations for the expenses of certain departments of the State for fiscal years ending June 30, 1978 and June 30, 1979.

HB 302, to provide for interest on tax refunds for all taxes administered by the department of revenue administration.

HB 270, relative to certain capital improvement appropriations for the aeronautics commission and the water resources board and the adjutant general.

HB 523, authorizing payment to Merrimack county for services rendered and making an appropriation therefor.

Adopted.

Sen. Jacobson moved to recess until Tuesday, at 9:00 a.m.

Adopted.

Recess.

## *TUESDAY, JUNE 14*

Out of Recess.

### HOUSE MESSAGES

#### HOUSE NONCONCURS IN AMENDMENTS AND REQUESTS COMMITTEES OF CONFERENCE

HB 812, establishing an order of distribution of assets of insolvent insurers.

The Speaker has appointed Reps. Thomas Hynes, Elizabeth Crory, Bruce Rossley and Kathleen Ward.

Sen. Keeney moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Rock, Poulsen, Bergeron.

HB 481, amending the charters of certain savings banks.

The Speaker has appointed Reps. James L. Logan, M. Susan Found, Claire Plomaritis and Bruce Rossley.

Sen. Provost moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Poulsen, Rock and Bossie.

HB 419, specifying procedures for the sale and fitting of hearing aids and requiring the registration of hearing aid dealers.

The Speaker has appointed Reps. Peter Parker, Elizabeth Crory, Sara Townsend and Phyllis Pucci.

Sen. Provost moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Monier, Rock and McLaughlin.

HB 876, relative to prior service credit of group I members of the retirement system.

Sen. Downing moved that the Senate refuse to accede to the request for a committee of conference.

Adopted.

HB 869, clarifying the priority of claims against insolvent insurance companies.

The Speaker has appointed Reps. Thomas Hynes, George Barker, Bruce Rossley and Peter Parker.

Sen. Fennelly moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Poulsen, Rock and Bergeron.

HB 686, relative to the duties of persons involved with vital statistics.

The Speaker has appointed Reps. Leigh Bossie, Stuart Trachy, L. Penny Dion and Sharon Brody.

Sen. Blaisdell moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Brown, Poulsen, and Healy.

HB 803, relative to insuring the proper disclosure of information from vital records.

The Speaker has appointed Reps. Leigh Bosse, Sharon Brody, L. Penny Dion and Stuart Trachy.

Sen. Saggiotes moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Brown, Poulsen and Healy.

HB 787, relative to mental health evaluations of minors before the juvenile court.

The Speaker has appointed Reps. Josephine Martin, James Carpenito, Kenard Ayles and Thomas Pappas.

Sen. Bergeron moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Bradley, Keeney and Bossie.

HB 779, relative to guardianship of residents of Laconia state school.

The Speaker has appointed Reps. Milton Cate, Guy Granger, Alfreda Smith and Lea Aeschliman.

Sen. Lamontagne moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Bradley, Bossie and Monier.

HB 609, establishing public guardian offices.

The Speaker has appointed Reps. Douglas Aller, Josephine Martin, James Carpenito and Dianne Herchek.

Sen. Rock moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Bradley, Monier and Foley.



HB 676, relative to the burden of proof in hearings on pre-judgment attachment.

The Speaker has appointed Reps. Philip Currier, Josephine Martin, Daniel Eaton and James Kaklamanos.

Sen. McLaughlin moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Jacobson, Bradley and Bossie.

HB 1030, concerning neglected and delinquent children and persons in need of supervision.

The Speaker has appointed Reps. Edward Willey, Esther Nighswander, Marion Copenhaver and Michael Cornelius.

Sen. Keeney moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Bradley, Jacobson and Foley.

HB 257, establishing a permanent joint legislative committee on elderly affairs.

The Speaker has appointed Reps. Douglas Aller, James White, Richard Hanson and Robert Plourde.

Sen. Healy moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Monier, Poulsen and Foley.

HB 469, increasing the minimum age for purchase, sale and consumption of alcoholic beverages to 19 years.

The Speaker has appointed Reps. Wilfred Cunningham, Bruce Rounds, Kenneth MacDonald and Michael Woodard.

Sen. Sanborn moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Jacobson, Bradley and Bossie.

HB 457, redefining the term "motor truck" in the motor vehicle laws.

The Speaker has appointed Reps. James Murray, K. Michael Tavitian, Robert Erler and Arlene Dion.

Sen. Provost moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Poulsen, Fennelly and Lamontagne.

HB 764, expanding the penalty provision relative to an overload vehicle.

The Speaker has appointed Reps. James Murray, Michael Tavitian, Carl Gage, and Roger Wallace.

Sen. Brown moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Poulsen, Lamontagne and Fennelly.

HB 1144, relative to the establishment of workmen's compensation self-insurance programs.

The Speaker has appointed Reps. Patricia Skinner, Kenneth Gould, James Normand and Margaret McGlynn.

Sen. Saggiotes moved that the Senate accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Bergeron, Poulsen and Monier.

### HOUSE CONCURS

HB 627, prohibiting certain advertising and expenditures by electric and gas utilities.

## HOUSE ACCEDES TO SENATE REQUESTS FOR COMMITTEE OF CONFERENCE

**SB 167**, relative to the enforcement of court ordered child support payments.

The Speaker has appointed Reps. Arthur Perkins, Doris Riley, Daniel Eaton and Philip Currier.

**SB 315**, relative to mobile home foundations.

The Speaker has appointed Reps. Roger King, Richard Hanson, Arnold Perkins and Arthur LaBonte.

## HOUSE REQUESTS CONCURRENCE IN AMENDMENTS

**SB 71**, providing for state assistance to persons suffering from hemophilia and making an appropriation therefor.

Sen. McLaughlin moved to concur in the amendment.  
See House Record pg. 2737.  
Adopted.

**SB 185**, relative to penalties for violation of fish and game offenses and repealing the taking of trout less than 6 inches in length.

Sen. Preston moved to concur in the amendment.  
See House Record pg. 2616.  
Adopted.

**SB 217**, prohibiting smoke bombs.

Sen. Monier moved to concur in the amendment.  
See House Record pg. 2621.  
Adopted.

**SB 194**, to permit the state to accept the retrocession of jurisdiction in and over the Veterans Administration hospital in Manchester, New Hampshire.

Sen. Monier moved to concur in the amendment.

See House Record pg. 2828.  
Adopted.

**SB 220**, requiring a mandatory jail sentence for any felony in which a deadly weapon.

Sen. Gardner moved to concur in the amendment.  
See House Record pg. 2730.  
Adopted.

**SB 99**, relative to supervision of bail bondsmen by the insurance commissioner.

Sen. Poulsen moved to concur in the amendment.  
See House Record pg. 2738.  
Adopted.

**SB 349**, granting zoning powers to the Lower Bartlett water precinct village district and ratifying the annual meetings of the Lower Bartlett water precinct village district for 1976 and 1977.

Sen. Poulsen moved to concur in the amendment.

See House Record pg. 2857  
Adopted.

**SB 157**, relative to regulation of carnival-amusement equipment by the division of safety services.

Sen. Preston moved to concur in the amendment.  
See House Record pg. 2742.  
Adopted.

**SB 223**, relative to the winter maintenance of Diamond Pond road in the towns of Colebrook and Stewartstown.

Sen. Poulsen moved to concur in the amendment.  
See House Record pg. 2821.  
Adopted.

**SB 282**, relative to the use of binder chains on certain motor vehicles transporting construction equipment.



Sen. Poulsen moved to concur in the amendment.  
See House Record pg. 2736.  
Adopted.

**SB 83**, relative to wild turkeys.

Sen. Preston moved to concur in the amendment.  
See House Record pg. 2739.  
Adopted.

**SB 53**, relative to vanpooling.

Sen. Gardner moved to concur in the amendment.  
See House Record pg. 2894  
Adopted.

**SB 4**, establishing a board of claims for the state and making an appropriation therefor.

Sen. Sanborn moved to concur in the amendment.  
See House Record pg. 2743.  
Adopted.

**SB 251**, relative to the housing finance agency.

Sen. Monier moved to concur in the amendment.  
See House Record pg. 2615.  
Adopted.

**SB 173**, establishing the New Hampshire municipal bond bank as a public body corporate and politic for the purpose of facilitating the borrowing of money by counties, cities, towns and districts and making an appropriation therefor.

Sen. Monier moved to concur in the amendment.  
See House Record pg. 2768.  
Adopted.

**SB 253**, relative to the examination, certification and registration of arborists and making an appropriation therefor.

Sen. Poulsen moved to concur in the amendment.

See House Record pg. 2737.

Adopted.

**SB 294**, establishing minimum standards for energy conservation in public buildings.

Sen. Fennelly moved to concur in the amendment.

See House Record pg. 2806, and 2620.

Adopted.

**SB 269**, relative to school committee elections in the city of Manchester.

Sen. Provost moved to concur in the amendment.

See House Record pg. 2734.

Adopted.

**SB 139**, making an appropriation for office space renovation at the John O. Morton building.

Sen. Sanborn moved to concur in the amendment.

See House Record pg. 2737.

Adopted.

**SB 186**, relative to extending the authority of the post-secondary education commission.

Sen. Keeney moved to concur in the amendment.

See House Record pg. 2738.

Adopted.

**SB 206**, relative to the salary of an unclassified employee as it relates to the salary of a subordinate classified or unclassified employee.

Sen. Rock moved to concur in the amendment.

See House Record pg. 2743.

Adopted.

**SB 334**, relative to the transfer of the Manchester and Nashua policemen to the New Hampshire retirement system and making an appropriation therefor.

Sen. Rock moved to concur in the amendment.  
See House Record pg. 2741.  
Adopted.

**SB 70**, relative to the appointment and duties of the New Hampshire retirement system trustees.

Sen. Rock moved to concur in the amendment.  
See House Record pg. 2741.  
Adopted.

**SB 232**, relative to voting lists in the city of Manchester.

Sen. Provost moved to concur in the amendment.  
See House Record pg. 2739.  
Adopted.

**SB 348**, establishing a special fund derived from bar applicant fees for the use of the supreme court.

Sen. Poulsen moved to nonconcur with the amendment and set up a committee of conference.  
Adopted.

The Chair appointed Sens. Jacobson, Brown and Fennelly.

**SB 50**, increasing the salaries of and establishing a code of ethics for the public utilities commission, increasing the unclassified staff of said commission and making an appropriation therefor.

Sen. Rock moved to nonconcur with the amendment and set up a committee of conference.  
Adopted.

The Chair appointed Sens. Rock, Saggiotes and Fennelly.

**SB 337**, relative to family day care.

Sen. McLaughlin moved to nonconcur with the amendment and set up a committee of conference.  
Adopted.

The Chair appointed Sens. Rock, Sanborn and McLaughlin.

**SB 350**, authorizing games of chance at agricultural fairs and nonprofit fund-raising activities and permitting local officials to receive reports of beano games.

Sen. Downing moved to nonconcur with the amendment and set up a committee of conference.

Adopted.

The Chair appointed Sens. Brown, Sanborn and Downing.

**SB 276**, concerning the penalties for using unapproved insurance policy forms.

Sen. Bergeron moved to nonconcur with the amendment and set up a committee of conference.

Adopted.

The Chair appointed Sens. Bergeron, Poulsen and Rock.

**SB 369**, authorizing the town of Littleton to exceed its bonded indebtedness to cover present indebtedness of the Littleton water and light department.

Sen. Poulsen moved to nonconcur with the amendment and set up a committee of conference.

Adopted.

The Chair appointed Sens. Poulsen, Smith and Lamontagne.

**SB 85**, relative to the authority tolls on the eastern New Hampshire turnpike, the central New Hampshire turnpike, and the New Hampshire turnpike system.

Sen. Gardner moved to nonconcur with the amendment and set up a committee of conference.

Adopted.

The Chair appointed Sens. Poulsen, Fennelly and Lamontagne.

**SB 26**, authorizing state employees' participation in the present incentive award program for selling sweepstakes tickets.

Sen. Downing moved to nonconcur with the amendment and set up a committee of conference.



Adopted.

The Chair appointed Sens. Bradley, Keeney and Foley.

## INTRODUCTION OF GUESTS

**SB 335**, relative to the establishment of a section of graphic services.

Sen. Monier moved to nonconcur with the amendment and set up a committee of conference.

Adopted.

The Chair appointed Sens. Monier, Poulsen and Preston.

**SB 208**, relative to prepaid legal insurance.

Sen. Bossie moved to nonconcur with the amendment.

Adopted.

Sen. Rock moved to reconsider our action on **SB 208**.

Division vote: 8 Senators voted yea; 8 Senators voted nay.

Motion failed. Sen. Rock requested a roll call. Request denied by the Chair as not being timely.

Sen. Monier challenged the ruling of the chair on **SB 208** and the vote thereto on the basis of research.

Sen. Saggiotes moved that the challenge be laid on the table.

Sen. Bossie requested a roll call. Seconded by Sen. Fennelly.

The following Senators voted yea: Lamontagne, Poulsen, Smith, Gardner, Saggiotes, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Sanborn, Brown.

The following Senators voted nay: Keeney, Hancock, Healy, Provost, Bossie, Fennelly and Preston.

12 yeas    7 nays

Adopted.

Sen. Trowbridge moved that the Senate go into the Committee of the Whole.

Adopted.

Sen. Saggiotes in the chair.

Sen. Trowbridge moved to adjourn from the committee of the Whole.

Adopted.

Sen. President in the chair.

**SB 289**, relative to the issuance of licenses to operators of golf, indoor tennis, racquet and curling clubs.

Sen. Downing moved to nonconcur with the amendment and set up a committee of conference.

Adopted.

The Chair appointed Sens. Bradley, Keeney and Fennelly.

**SB 114**, authorizing the inclusion of dog races in sweepstakes and drawings conducted by the sweepstakes commission.

Sen. Downing moved to nonconcur with the amendment and set up a committee of conference.

Adopted.

The Chair appointed Sens. Brown, Saggiotes and Fennelly.

**SB 171**, relative to dredge and fill control.

Sen. Keeney moved to nonconcur with the amendment and set up a committee of conference.

Adopted.

The Chair appointed Sens. Smith, Bradley and Blaisdell.

**SB 189**, establishing a coastal resources management program and making an appropriation therefor.

Sen. Keeney moved to nonconcur with the amendment and set up a committee of conference.

Adopted.

The Chair appointed Sens. Monier, Keeney and Hancock.

**SB 236**, relative to a single retirement rate, service retirement benefits and vested rights under the New Hampshire retirement system.

Sen. Trowbridge moved to nonconcur with the amendment and setup a committee of conference.

Adopted.

The Chair appointed Sens. Trowbridge, Provost, and Saggiotes.

## HOUSE NONCONCURS IN AMENDMENT AND REQUESTS A COMMITTEE OF CONFERENCE

HB 1086, changing the name of the New Hampshire Home for the elderly to the Glenclyff home for the elderly and transferring the Glenclyff home for the elderly from the division of public health to the division of mental health.

The Speaker has appointed Reps. Milton Cate, Donald Howard, Mary Cotton and Edward Wojnowski.

Sen. McLaughlin moved to accede to the request for a committee of conference.

Adopted.

The Chair appointed Sens. Smith, Bradley and Downing.

Sen. Trowbridge moved reconsideration on HB 1096.

Adopted.

HB 1096, establishing and funding a highway transportation fund to aid the elderly and handicapped.

Sen. Trowbridge moved that HB 1096 be sent to the Supreme Court for an advisory opinion.

Sen. TROWBRIDGE: This is a bill that deals with raising more fees from drivers using the funds to fund the transportation of the elderly. We had a very difficult time with this bill because we received sort of a semi-court challenge. We meant to send it to the supreme court and somehow it slipped through the fielders and so we sent it to study. I would like to bring it back on the floor and send it over to the supreme court so we will know whether it is legal to use highway funds for this purpose or not. It seems the only way to resolve the issue. I hope you will vote to reconsider and send it to the supreme court.

Adopted.

Sen. Smith in the Chair.

FURTHER HOUSE MESSAGES  
HOUSE REQUESTS CONCURRENCE IN  
AMENDMENT

**SB 366**, establishing a 5 member oversight committee to recodify the election laws and making an appropriation therefor.

Sen. Sanborn moved to nonconcur with the amendment and set up a committee of conference.

Adopted.

The Chair appointed Sens. Jacobson, Sanborn and Hancock.

**SB 190**, relative to the registration of lobbyists.

Sen. Lamontagne moved to nonconcur with the amendment.

Sen. LAMONTAGNE: Mr. President and members of the Senate. This bill is a bill that I introduced here in the Senate which is a lobbyist bill. My bill was for the purpose of any lobbyists who did not register in the previous year according to the laws with the Secretary of State. That is all SB 190 did. SB 190 was on the Governor's desk. The House recalled the bill and put on the amendment and that is the bill, exactly the same bill that is now pending in the Administrative Affairs Committee. I personally feel that even though the sponsor of HB 427 who has mentioned about us and myself and Mrs. Hurst that we were working together. I personally feel that the bill which is now tied up in committee that I don't think it is right for the House to have tacked that onto my bill. I am hoping that the Senate will stand behind me and even if I have to sacrifice my bill I would rather see it die than to see the House do what has been done on SB 190.

Sen. BOSSIE: Senator I find it intriguing to say the least, in view of the fact that earlier this morning we had a bill in here, 208, my bill, prepaid legal insurance in which the House tacked on an amendment, an amendment which is similar to



a bill that I had fought for in the Senate and which was sent to interim study and which you sir voted to allow to tack on. Now if we are to be consistent shouldn't we kill yours or not? Are you going to be consistent? You voted against me earlier this morning so therefore your opinion is that this should come in and go to a committee of conference?

Sen. LAMONTAGNE: MY bill is already on the Governor's desk to be signed and yours was in the House. There is a big difference.

Sen. HANCOCK: The reason as Senator Lamontagne explained for this action is because it is another one of those bills which is in one of the Senate Committees and has not been reported out and this was the tack that Representative Hess took. The lobbyist bill which is the one in question and the one tacked onto SB 190 is a bill which would—we need the bill because the law on the books is at the present time was written in 1909. It is vague and confusing and it is full of loopholes. Currently the data on the activity of lobbying is only useful to scholars. The updated law would certainly make it more timely and more useful. How must register under the proposed law? Only those who are paid at the present time must register to act in a representative capacity in organizations which lobby. How would registration requirements differ from the present? They wouldn't. Only additional information required is salary arrangement. Also organizations are included. Common Cause, the Clamshell Alliance, a lot of those favorites of the Senate. Save Our Shores and so forth plus there are exemptions. What information would have to be reported. The same provisions as present except reports bymonthly rather than after the session. Organizations would report if they don't have a lobbyist to do so and the amount spent on individual legislators must be reported if more than 50 dollars bimonthly. So I urge the members of the Senate to vote against the motion to non-concur and consider this amendment to SB 190.

Sen. LAMONTAGNE: Senator Hancock did you try to take some of the reports out of committee just a few days ago?

Sen. HANCOCK: Yes I did.

Sen. LAMONTAGNE: Weren't you defeated.

Sen. HANCOCK: I was sorry to say.

Sen. LAMONTAGNE: Are you aware that this amend-

ment on SB 190 is a piece of legislation in committee?

Sen. HANCOCK: I am aware of that, however, that doesn't preclude the possibility or the need for it getting a little sunshine here.

Sen. LAMONTAGNE: Is this another gimmick in order to be able to get some of these bills out of committees?

Sen. HANCOCK: This provides the Senate with an opportunity to bring forth a bill which the committee has denied the Senate the opportunity to vote upon.

Sen. LAMONTAGNE: Was this one of the bills that was in committee and you wanted to take out?

Sen. HANCOCK: No sir.

Sen. JACOBSON: We had quite a debate on SB 208 with regards to the question and I have read the bill and I think it is an important amendment that ought to go to a committee of conference. I notice that there are a number of Senators who favor it going to a committee of conference on the previous bill which they considered important and I consider this particular bill to be important. I think there is one important distinction here with regards to SB 208. The fact is that the amendment to SB 208 did in fact have a long debate on the Senate floor and was in fact by vote committed to study. This bill has had no vote and no discussion so it is clearly a different question. Furthermore, I am increasingly distressed about the effectiveness of lobby efforts here in the general court this year. I think in the five terms that I have been here there has never been such a lobby effort that has taken place as it has this time. I think we ought to at least consider and Senator Downing has agreed to put Senator Lamontagne on the committee and it required a unanimous vote so that Senator Lamontagne's influence and impact will be there. I have agreed to put Senator Lamontagne on the committee as well but I think this is an issue that goes to the very heart of the legislative process and that it ought to be thoroughly discussed and thoroughly considered. If we turn this down I think we are sending a message that lobbyists come one and all and influence us. I am deeply concerned with this substitution of lobbyist views for the public interest. I am also deeply concerned about bureaucratic views being substituted for the public interest but this particular bill deals with lobbyists and I think we ought to have a serious discussion between the members of the House and the members of the

Senate with regards to this. Now I spoke to the chairman of this committee and he said there are lots of knots in the bill. That may be true but maybe we can work out the knots. If you had been out in the hallways in the last few days it has been a horrendous effort even to get in here running through the lobbyists. And I think we ought to give this very serious consideration before we abandon the position that there ought to be greater regulation of lobbyist efforts.

Sen. BRADLEY: The knots in the bills they are k-n-o-t-s.

Sen. JACOBSON: Yes.

Sen. BRADLEY: In respect to "nots" in the bill. What is it that you would propose to restrict from doing what they are now doing?

Sen. JACOBSON: That would require a discussion of the bill, would you want to go that far. I want to discuss the issue in terms of who is registered, who is not, the issue has been raised as to whether constituents can contact the person; there are issues in wording. I think we ought to at least have a discussion.

Sen. BRADLEY: I have no qualm with the bill but when you stand up and complain as you have about lobbyists influencing legislation in ways that you don't like and you want to regulate that I am very interested in that because what you are proposing to restrict them from doing that they are now doing.

Sen. JACOBSON: I don't know that I want to or not but I think we ought to discuss it. May I further clarify—apparently the lobbyists have been successful in keeping it in committee so there must be fears that they have.

Sen. BRADLEY: But you do agree that it is the senators who voted to keep it there. The lobbyists didn't have a vote.

Sen. JACOBSON: I am never sure whether the lobbyists have votes or not.

Sen. LAMONTAGNE: Senator you are aware that the amendment that the House put on that it is a bill in a committee?

Sen. JACOBSON: Yes I am aware of that and I am the sponsor of the bill.

Sen. LAMONTAGNE: No wonder you are for it. Senator you are the President and why is it that you can't get together with the committee in trying to get your bill out so that it can be discussed on this floor instead of taking SB 190

that had already been passed through both Houses and already was on the Governor's desk?

Sen. JACOBSON: Senator I did try to get it out of the committee. I did not put it on SB 190. In fact I had nothing to do with putting it on SB 190. However, since it is on 190 and it is my bill and I am sure Senator Lamontagne that if it had been one of your bills put on you would have put up the same kind of fight I am putting up.

Sen. LAMONTAGNE: Senator do you suppose if I find another bill I might be able to put that referendum on for the city of Berlin, would you support it?

Sen. JACOBSON: I supported you here.

Sen. LAMONTAGNE: Senator do you think there is any other bills in committees that you know of that has been held up by committee here in the Senate?

Sen. JACOBSON: Yes there are. Would you be in favor of an amendment that we take all of these bills out one by one by having the House put amendments to some of these bills that they have and therefore take these bills out with the lobbyist bill is now being held up in a committee?

Sen. JACOBSON: Yes I would. I would like to have every bill that is in the Senate, house or senate bill, come out on the floor except those bills which the sponsors have consented not to take out.

Sen. KEENEY: Senator having heard between the lines as this brief discussion was going on, would you explain to me why you would prefer to nonconcur and set up a committee of conference rather than to concur with the house amendment.

Sen. JACOBSON: I would prefer to concur with the House amendment but I think the input of both sides ought to be put in to it. I think that is only fair that that should take place since it did come over as a Senate amendment and I think it is common practice that when there is a division in this body for example, that both sides ought to have the input, that is the real reason for nonconcurrence and setting up a committee of conference. Personally I would want to concur but I think that there ought to be some kind of fairness with respect to this so that the middle ground is nonconcur and set up a committee of conference.

Sen. LAMONTAGNE: Senator believe me I don't want to be rude in any way. Do you feel that justice had been given to 208 this morning?



Sen. JACOBSON: It was according to the proper parliamentary procedure.

Sen. LAMONTAGNE: But the procedure was from the presiding officer when the matter was put to a vote and without the Senate knowing exactly what was in 208, the amendment, it was pushed onto the Senate and then therefore it forced us to go into reconsideration.

Sen. JACOBSON: That bill was handled in exactly the same way that every other bill has been handled and it is up to the responsibility of each Senator to be present and be alert to what is going on.

Sen. LAMONTAGNE: You are aware that 208 has not been passed, that it is on the table, isn't that right?

Sen. JACOBSON: No I am not aware of that. The motion to nonconcur and set up a committee of conference—excuse me the motion to reconsider the action where we nonconcur failed on a tie vote and therefore reconsideration failed. There has been a challenge made to the ruling that I made with respect to the procedure in voting. But that is a fully different question at this moment.

Sen. BROWN: This bill is referred to the Administrative Affairs Committee in the very last days of May. If I remember correctly I think we had the hearing on June 2nd. It was in the days when we had so many bills sent to us, it was close to 500. Both members of the House and members of the Senate were rushing around and meeting themselves coming backwards. They were rushing in and out and there were very few people to testify in support of this bill. After the hearing was over I received communication after communication after communication. From nonprofit organizations that felt the bill ought to be amended; from church groups that felt it should be amended. Questions as to where a company's place of business is, you are only to speak to the representative that represents you. Now in the case of industry is it where the plant is; is it where the president of the company is; is it where the help is. There are endless problems that we have had with this bill. With the workload that we have had and the hours that we have spent here to do justice to this bill in any way, my committee felt very strongly that it was literally impossible. We also believe very strongly that this violates the constitution of the state of New Hampshire. On page 83 of the red book of the constitution, the bill of rights and it is article 32. The people have a right in an or-

derly and peaceable manner to assemble and consult upon the common good. Give instructions to its representatives and to request the legislative body by way of a petition and address the wrongs done them and the grievances they suffer. This may or may not be true, we did not have the time to look into this sort of thing. To amend this bill in many, many ways was requested of us. I am not not saying that there might not be some good to this bill, I am not saying that, but it is literally impossible for five people on that committee to this bill justice. And I also don't believe in coming out with a bill to send to interim study, not having any basis as to what do you study and how do you go at it. And I will not bring out a bill, inexpedient, ought to pass, if my committee and myself do not understand it.

Sen. ROCK: The charges here are a little bit inconsistent here and I think that is an unfair charge. The issue of the way 208 was handled here this morning with a very light number of Senators here. I understand that that was to brought out here this afternoon but the Senate refused to even reconsider it. I am going to vote not to consider either one of them. I want to be consistent.

Sen. MONIER: I just want to have on the record that once again we are faced with the same situation that we are going to be dealing with I think all day. There is no question in my mind that we probably need a lobbying bill but I think we ought to include the representatives from the other chambers who are probably the best ones that I have found in the state so far. The truth of the matter is that when you have dumped the bills in on 24 senators and then at the same time, this is not mentioned, at the same time scheduled their bills and then holler because they are not present, I think you will recognize if you really want to look at the basic problem that exists rather than the individual person who is on a bill or the bill's content. It is almost impossible in some cases to handle those that are lengthy and controversial or deal in great detail with it in that space of time. And then you're dealt a second problem—you can't get into the senate chambers or out of it without running a gauntlet of why did you do this to my bill. Then comes along the third phase which is always the threats, the ideas well we haven't got your bills out yet and we know what happens and so forth. So when you come here you come here with either a couple of armor plates or you come with the idea very frankly, that you recognize that you

are not going to get what you want if you don't give to somebody else what they want. The thing that disturbs me about this particular bill is that there were many, many questions raised in committee. There was not the time and I back up what Senator Brown said, to get into all of it. Last but not least when I get a letter three days later telling me how the House and its committee has spent months on this bill I have to ask myself not whether it is a good bill or not, not whether it is a bill they spent four or five months on which they have already said so and they had time enough to do it, but whether we as Senators can assimilate that in two days. I didn't think we could, I went with Senator Brown on it, I still feel the same way and I don't think it is proper to violate our own rules with respect to the power of a committee chairman and then at the same time encourage, encourage the house to take bills and put on bills, that which they cannot get through the Senate. If you continue to do that I suggest very strongly that we let them have all the bills, they hold all the hearings, they send them over to us, and we just concur. I personally would find that a lot less hectic.

Sen. BROWN: Senator in committee, was it not testified to there be a committee of the House working on this bill for a year or two, no members of the Senate were members of the committee, this bill also was in committee in the House for a couple of months, passed the House, first of May went to appropriations and took a full month down in Appropriations and we have had it less than two weeks, is that not true?

Sen. MONIER: To the best of my knowledge yes.

Sen. Jacobson moved that the words "nonconcur and set up a committee of conference" be substituted for the words "nonconcur".

Sen. Jacobson requested a roll call. Seconded by Sen. Bossie.

The following Senators voted yea: Bradley, Jacobson, Blaisdell, Trowbridge, Keeney, Hancock, Bossie, Preston.

The following Senators voted nay: Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown, Fennelly, Downing.

8 yeas 14 nays

Motion failed.

Motion of "nonconcur" adopted.

## COMMITTEE REPORTS

HB 1191, making appropriations for capital improvements. Ought to pass with amendment. Sen. Sanborn for the committee.

## Amendment to HB 1191

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Appropriation. The sums hereinafter detailed in this section are hereby appropriated for the projects specified to the departments, agencies and branches named:

## I. Adjutant General

A. Intrusion detection system	\$56,400
Less federal	42,300

Net appropriation	\$14,100
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B. Milford armory	50,000
Less federal	9,000

Net appropriation	41,000
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C. Manchester armory-boiler repair	3,500
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Total paragraph I	\$58,600
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## II. Administration and Control

A. Window replacement	600,000
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B. Heating and cooling equipment and controls, insulation mechanical controls, purchase and installation of an automated energy management system including sensors and related equipment for the following buildings: state house, annex, legislative



office building, library,  
 Hayes building, Morton  
 building, supreme court,  
 health and welfare and CDP  
 building and health building  
 on South Spring street.

C. Test wells for state office complex on Concord Heights	15,000
D. Demolition of 2 wooden buildings on South street	30,000
E. Purchase and property warehouse repairs	10,000
F. Security gate—Bridges house	5,000
G. White farm barn—floor replacement	23,000

Total paragraph II	<hr/> \$1,676,000
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\*Heating and cooling equipment and controls, window replacement program and related projects affecting the legislative office building and portions of the state house under legislative control to be coordinated by the president of the senate and the speaker of the house. Of the amount appropriated, \$53,600 shall be amortized from the highway fund.

### III. Aeronautics Commission

#### A. Keene, Dillant-Hopkins airport

(1) Reconstruct runway 2-20	285,000
Less federal	228,000

Net appropriation paragraph (1)	<hr/> 57,000
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(2) Reconstruct taxiways	160,000
Less federal	128,000

Net appropriation paragraph (2)	<hr/> 32,000
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Net appropriation paragraph A	<hr/> 89,000
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#### B. Lebanon regional airport

(1) Reconstruct runway 18-36	360,000
Less federal	288,000

Net appropriation paragraph (1)	<hr/> 72,000
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(2) Slurry seal runway 7-25	140,000	
Less federal	112,000	
n		
Net appropriation paragraph (2)	28,000	
Net appropriation paragraph B		100,000
C. Manchester municipal airport		
(1) Slurry seal runway 17-35	150,000	
Less federal	120,000	
Net appropriation paragraph (1)	30,000	
(2) Construct taxiway parallel to runway 6-24	150,000	
Less federal	120,000	
Net appropriation paragraph (2)	30,000	
Net appropriation paragraph C		60,000
D. Rochester. Skyhaven airport		
(1) Slurry seal runway and taxiway	52,000	
Less federal	41,600	
Net appropriation paragraph D		10,400
E. Concord municipal airport—approach lighting for runway 35	40,000	
Less federal	32,000	
	j5 TTTT	
Net appropriation paragraph E		8,000
F. Plymouth airport—Improve turf runway		7,500
Total paragraph III		274,900
IV. Education		
A. Berlin voc-tech college		
(1) Machine shop tools	66,000	
(2) Addition to Twitchell property (Force account)	18,000*	
(3) Addition to library and classrooms	770,000	
Total paragraph A		854,000

\*Rental income from the Twitchell property shall be sufficient to cover the amortization of bonds or notes issued for this project.

B. N.H. technical institute	
(1) Electronics equipment	75,120
(2) Snow removal equipment	20,000
(3) Mechanical and architectural equipment	41,000
(4) Electronic and Mechanical equipment	64,050
Total paragraph B	200,170
C. Laconia voc-tech college	
(1) New classrooms and laboratory	1,673,000
(2) Secretarial laboratory equipment	11,500
(3) Electronics laboratory equipment	16,500
(4) Graphic arts equipment	101,500
(5) Fire protection instructional equipment	17,500
Total paragraph C	1,820,000
D. Manchester voc-tech college	
(1) Automotive equipment	29,500
(2) Metallurgy material equipment	14,200
(3) Classroom and laboratory addition	3,662,000*
(4) Construction of a metal/ storage facility (Force account)	25,000
Total paragraph D	3,730,700

\*Not to be built if an area vocational school is scheduled there. No construction or planning shall commence until a decision is made.

E. Nashua voc-tech college	
(1) Electric-electronics equipment	27,000

(2) Machine tool equipment	52,000
(3) Classroom-laboratory addition	1,927,000
(4) Cafeteria addition	335,000
	<hr/>
Total paragraph E	2,341,000
F. Portsmouth voc-tech college	
(1) TAPE lathe (machine tool equipment)	53,000
(2) Automotive equipment	43,600
(3) Drafting equipment	6,000
(4) Plowing and hauling equipment	8,328
(5) Land acquisition and engineering	150,000
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Total paragraph F	260,928
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Total paragraph IV	9,206,798
V. Health and Welfare	
A. Glencliff	
(1) Elevator replacement	31,000
(2) Turbine replacement	45,500
(3) Reshingle Brown building	14,500
	<hr/>
Total paragraph A	91,000
B. New Hampshire hospital	
(1) Boiler replacement	400,00
(2) Food storage cooler	15,000
(3) Rotary baking oven replacement	16,000
(4) Philbrook drive	16,000
(5) Renovate top two floors of Brown Building for use as a maximum security unit	1,005,000
	<hr/>
Total paragraph B	1,452,000
C. Laconia state school	
(1) Alterations and equipment for Rice and Speare buildings (Force account)	10,000
(2) Renovate outside wiring and fire alarm	41,200



(3) Rotary baking oven	14,500
(4) Replace steamlines—Dwinell and Murphy	38,400
(5) Replace washer-extractor	35,000
(6) Replace heating in Rice	30,000
(7) Meredith Center road bypass	400,000*
(8) Construction of 3 wharves	10,000
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Total paragraph C	579,100
	<hr/>
Total paragraph V	2,122,100

\*To be amortized with highway funds.

#### VI. N.H. Youth Development Center

A. Floor and ceiling replacement in main kitchen	12,000
B. Repairs to swimming pool complex	50,000
C. Residential center for girls— purchase, renovation and equipment	125,000
D. Replacement of underground steam lines	131,000
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Total paragraph VI	318,000
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#### VII. Port Authority

Site improvement—grading and paving of parking area near Barker wharf, Barker wharf repairs and removal of old piles.	100,000*
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\*Not to be transferred or used for any other purposes. This appropriation shall lapse June 30, 1979. The Port Authority, with the approval of the governor and council, may accept gravel/fill from the Army Corps of Engineers dredge project on the Piscataqua river.

#### VIII. Resources and Economic Development

A. Office of commissioner— land acquisition	
(1) Miscellaneous land purchases to include but not limited to Appalachian Trail	200,000

Less federal	100,000	
Net appropriation	100,000	
(2) Pawtuckaway state park	34,200	
Less federal	17,100	
Net appropriation	17,100	
(2) Wentworth-Coolidge state historical site	19,800	
Less federal	9,900	
Net appropriation	9,900	
(4) Administrative costs for land acquisition—appraisals, title work, surveys and taxes	28,222	
Total paragraph A		155,222
B. Parks and recreation		
(1) Echo lake state park	20,000	
Less federal	10,000	
Net appropriation paragraph (1)	10,000	
(2) Franconia Notch state park	40,000	
Less federal	20,000	
Net appropriation paragraph (2)	20,000	
(3) Berlin wayside and recreation area	20,000	
(4) Baker river site No. 7	35,000	
Less federal	7,500	
Net appropriation paragraph (4)	27,500	
(5) Sunapee and Franconia-2 houses (Force account)	60,000	
(6) Fort constitution	50,000	
(7) Hampton beach bath houses	50,000	

Net appropriation paragraph B	237,500
C. Construction, reconstruction, removal or relocation of depart- ment buildings, including but not limited to forestry dis- trict headquarters in Lancaster and Northwood	60,000
D. Economic development- completion of Portsmouth fishing pier	400,000*
Total paragraph VIII	852,722

\*To be reduced by any available federal funds.

#### IX. State Prison

A. Life and fire safety	50,000
B. Equipment for prison industries	21,000
C. Command post	16,000
D. Security screens	35,000
E. Vocational training shops	263,000
F. Halfway house—purchase, renovation and equipment	69,000
G. Laundry rehabilitation and equipment	35,000
H. Exercise yard	12,000
I. Wall repairs	50,000
J. Farm Expansion	250,000
K. Boiler—Shea Farm	20,000
L. Study to include planning, design and engineering for a new or renovated state prison facility on present prison property	1,200,000*
Less crime commission funds	1,080,000
Net appropriation	120,000
M. North yard recreational development	80,000
N. Purchase and installation of (1) Walk-in refrigerator and (1) Walk-in freezer	16,000

Total paragraph IX

1,037,000

\*If crime commission funds are not available then the net appropriation shall lapse. Study of this facility is to be made by a special prison design committee composed of 8 members as follows: 2 senators appointed by the president of the senate, 2 representatives appointed by the speaker of the house, 1 member appointed by the governor, 1 member appointed by the prison board of trustees, 1 member appointed by the governor's commission on crime and delinquency and the commissioner of public works and highways or his designee. Expenditures from this appropriation shall be authorized by a majority vote of the committee.

## X. Department of Safety

## A. Garage facility—

Construction and equipment 260,000

B. Two Safety sub-stations and  
state police barracks in the areas  
of Keene and Moultonborough

520,000

Total paragraph X

780,000\*

\*To be amortized with highway funds.

## XI. N.H. Water Resources Board

A. Baker river watershed site 7 2,664,640

Less federal 1,873,000

Less local 576,646

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 Net appropriation paragraph A 214,994

## B. Sugar river watershed

site D-2 1,110,500

Less federal 1,000,000

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 Net appropriation paragraph B 110,500

## C. Souhegan river watershed site

19 1,506,000

Less federal 1,500,000

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 Net appropriation paragraph C 6,000

Total paragraph XI

331,494\*



\*Notwithstanding the provisions of section 12, II and section 13, II of this act, revenues in excess of the estimate may be expended on public law 566 projects, with the approval of governor and council.

## XII. Water Supply and Pollution Control Commission

A. Winnepesaukee river basin	5,350,000
Less federal	4,012,500
Less local	267,500.

Net appropriation paragraph A	1,070,000
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B. Regional training center	250,000
Less federal	250,000

Net appropriation paragraph B	-0-
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Total paragraph XII	1,070,000*
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\*The sum hereby appropriated shall not lapse or be transferred or used for any other purposes. Any unexpended portions shall be added to the appropriation of the commission in any succeeding fiscal year to be used for the purposes contained herein. Any sums remaining from the previous appropriations for the Winnepesaukee river basin program shall not lapse or be transferred or be used for any other purposes. Such unexpended portions shall be added to the appropriation of the commission in any succeeding fiscal year to be used for the purposes contained herein.

## XIII. Public Works and Highways—

Reconstruction of Hazen Drive	600,000*
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\*To be amortized with highway funds

## XIV. Liquor Commission—

Electronic cash registers	500,000
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Total state appropriation section 1	\$18,927,614
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2 Appropriation, University of New Hampshire. The sums hereinafter detailed in this section are hereby appropriated for the projects specified, including but not limited to the

purchasing, constructing, furnishing and equipping thereof, to the trustees of the university of New Hampshire:

I. University system all campuses

A. Life safety code and handicapped study	\$140,000
B. Land acquisition	135,000

Total paragraph I	<hr/> \$275,000
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II. Durham campus

A. Implementation of energy study	1,374,000
B. Planning for modifications to athletic facilities to comply with Title IX	35,000

Total paragraph II	<hr/> 1,409,000
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III. Keene campus—construction of liberal arts building

4,950,000

IV. Plymouth campus

A. Renovation of Rounds hall	748,000
B. Dining hall expansion	282,000*

Total paragraph IV	<hr/> 1,030,000
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V. Merrimack Valley Branch—

Construction of second building

3,494,000

VI. New Hampshire Network

A. Purchase and installation of a microwave repeater and other electronic equipment and instruments	22,000
B. Purchase and installation of a security fence	3,000
C. Construction of a concrete block building (approximately 10' x 10')	4,000
D. Repaint tower	700

Total paragraph VI	<hr/> 29,700
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Total state appropriation section 2	<hr/> \$11,187,700
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\*30 year bonds to be self-amortizing in accordance with RSA 187:10-a.

3 Appropriation for the restructuring of the Hooksett liquor stores.

I. Construction of Liquor Stores. The liquor commission is hereby authorized and directed to purchase sites and construct 2 liquor stores, one adjacent to the northbound lane and one adjacent to the southbound lane north of the Hooksett toll station on the F.E. Everett Turnpike. The stores are each to be approximately 8,000 square feet in size.

II. Exemption. Neither the provisions of RSA 236:8 nor of RSA 228:4, I shall apply to the construction, design or operation of the facilities provided for in paragraph I of this section.

III. Operation of Stores. Notwithstanding any other provision of law to the contrary, the liquor commission is directed to operate the stores provided for in this section 7 days a week, excepting the following holidays: New Year's, Easter, Thanksgiving and Christmas.

IV. Removal of Temporary Stores. The 2 temporary stores constructed under the provisions of Laws of 1975, 504, VIII shall remain in operation until the stores authorized in paragraph I of this section are opened. Upon discontinuance of said temporary stores, all reusable equipment within the buildings shall be removed by the liquor commission for use in other locations. Remaining usable parts of the two buildings shall become the property of the department of public works and highways for removal and utilization.

V. Appropriation for Liquor Stores. There is hereby appropriated to the liquor commission for purposes of paragraph I of this act the sum of \$1,500,000 to be expended by them for planning, fees, consultants, land, construction, equipment and any other incidental expenses necessary to carry out the provisions of paragraph I of this section.

VI. Rest Area-Information Center Authorized. The commissioner of the department of public works and highways is authorized and directed to develop plans and award contracts as necessary to establish northbound and southbound restroom and information centers at the location of and in close proximity to the two new liquor stores proposed to be constructed on the F. E. Everett Turnpike approximately 1 mile north of the Hooksett toll booths. The commissioner is further authorized to utilize available balances from the appropriations provided under RSA 256-C:6 for improvements to the Central N.H. Turnpike and for these projects is

exempted from the provisions of RSA 228:4 relative to the employment of independent registered professional engineers or consultants.

#### 4 Hampton Liquor Store.

I. Construction of Liquor Store. The liquor commission is hereby authorized to construct and equip one liquor store adjacent to the southbound lane, south of the Hampton toll station, on the Eastern New Hampshire Turnpike—Blue Star Highway. This store is to be approximately 8,000 square feet.

II. Exemption. Neither the provisions of RSA 236:8 nor of RSA 228:4, I shall apply to the construction, design or operation of the facilities provided for in paragraph I of this section.

III. Operation of Stores. Notwithstanding any other provision of law to the contrary, the liquor commission is directed to operate the store provided for in this section 7 days a week, excepting the following holidays: New Year's, Easter, Thanksgiving and Christmas.

IV. Appropriation for Liquor Stores. There is hereby appropriated to the liquor commission for purposes of paragraph I of this section the sum of \$1,000,000 to be expended by them for planning, fees, consultants, land, construction, equipment and any other incidental expenses necessary to carry out the provisions of section 1 of this act.

#### 5 Central New Hampshire Turnpike Merrimack Interchange.

I. Reclassification of Certain Roads in Merrimack. After the effective date of this act, the 1.28 miles of highway in the town of Merrimack known as Continental boulevard including its extension, beginning at its junction with Amherst road in the vicinity of Interchange No. 8 of the Central New Hampshire Turnpike in Merrimack and running southerly to its junction with Camp Sargent road, when said Continental boulevard has been accepted by the town of Merrimack as a class V highway and the 2.64 mile section of Camp Sargent road from the southerly terminus of Continental boulevard as extended, southerly to its junction with Naticook road, and the section of Naticook road running southerly to New Hampshire route 101-A, are hereby classified as class II highway.

II. Town of Merrimack; Authorization to Appropriate. Notwithstanding the provisions of RSA 31 and any other



laws to the contrary, the selectmen of the town of Merrimack are hereby authorized to call a special town meeting and include in the warrant of such meeting an article to provide for an appropriation of town funds and a means of funding to match state funds on a 50-50 basis for the engineering, acquisition of rights of way and construction of a class II highway between Interchange No. 8 and New Hampshire route 101-A, along the Camp Sargent—Naticook road corridor. Such an appropriation and authorized bonds shall be in addition to the town's legal limit of indebtedness.

III. Appropriation. There is hereby appropriated the sum of \$1,100,000 for the purposes of funding the state portion of the funds authorized by paragraph II of this section.

IV. Bond Issue Authorized. For the purpose of providing funds necessary for the appropriation made by paragraph III of this section, the state treasurer is hereby authorized to borrow upon the credit of the state a sum not exceeding \$1,100,000 and for that purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The interest and principal due on bonds or notes issued under this section shall be a charge on the highway fund.

V. Relocation of Existing Toll Plaza. Amend RSA 256-C:2 by inserting after paragraph IV the following new paragraph:

V. Make improvements to the Central New Hampshire turnpike, including, but not limited to, the construction of a new interchange approximately 1-½ miles south of Interchange No. 8 in the town of Merrimack, connector roadways to U.S. route 3 and Camp Sargent road and relocation of the toll plaza southerly to a point in the vicinity of new interchange. Access to the existing Thornton's Ferry interchange shall be maintained for emergency vehicles under conditions prescribed by the commissioner of the department of public works and highways; and the commissioner may also provide for toll access to the turnpike at the existing interchange, if such access is deemed feasible and in the public interest.

VI. Feasibility. Amend RSA 256-C:3 by inserting after paragraph III the following new paragraph:

IV. The engineering, traffic and capacity studies conducted by the department which have established the need for the new interchange, connector roadways and toll plaza on the Central New Hampshire turnpike in the town of Mer-

rimack, shall be considered as the determination of the feasibility.

VII. Commissioner of Public Works and Highway Authorization. Amend RSA 256-C:4, II (b) (supp) as inserted by 1971, 520:1 by inserting in line 2 after the word "statute" the following (or by donations, approved by governor and council) so that said subparagraph as amended shall read as follows:

(b) Acquire in the name of the state by purchase or by exercise of the right of condemnation as provided by statute or by donation, approved by governor and council such lands, property, rights, easements and interests as may be deemed necessary for carrying out the provisions of this chapter.

VIII. Merrimack Interchange. Amend RSA 256-C:6 (supp) as inserted by 1971, 520:1 as amended by inserting after the numerals "1,700,000" the following:

Construction of New Merrimack	
interchange,	Sixteen million dollars
connector roads and toll plaza	(\$16,000,000)

IX. Borrowing Power Increased. Amend RSA 256-C:7 (supp) as inserted by 1971, 520:1 as amended by striking out in line 4 the words and numerals "ninety-one million, two hundred thousand dollars (\$91,200,000)" and inserting in place thereof the following (one hundred seven million, two hundred thousand dollars (\$107,200,000)) so that said section as amended shall read as follows:

256-C:7 Borrowing Power. For the purpose of providing funds necessary for the appropriations made by RSA 256-C:6, the state treasurer is authorized to borrow upon the credit of the state a sum not exceeding one hundred seven million, two hundred thousand dollars (\$107,200,000) and for the purpose may issue bonds and notes in the name and on behalf of the state in accordance with the provisions of RSA 6-A; provided that the bonds may mature up to 30 years from their dates of issue and may be made redeemable before maturity at the option of the governor and council at such price or prices and under such terms and conditions as may be fixed by the governor and council prior to the issue of the bonds. The interest on bond anticipation notes may be funded by the issue of bonds to the extent of the applicable bond authorization and, to the extent not so funded, may be

paid from any source from which interest on the anticipated bonds could be paid, including any of the turnpike reserve accounts identified in RSA 256-C:14.

6 Expenditures, General. The appropriation made for the purposes mentioned in section 1, and the sums available for those projects, shall be expended by the trustees, commission, commissioner, or department head of the institutions and departments referred to herein, provided that all contracts for projects and plans and specifications therefor shall be awarded in accordance with RSA 228.

7 Land Acquisition. Any land acquired under the appropriations made in sections 1, 3, 4 and 5 except such land, if any, as may be acquired under the appropriation for the water resources board, shall be purchased by the commissioner of public works and highways, with the approval of governor and council.

8 Bonds Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2, 3, V and 4, IV of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$32,615,314 and for said purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

9 Payments. The payment of principal and interest on bonds and notes issued for the projects in sections 1, 2, 3 and 4 shall be made when due from the general funds of the state; provided, however, that the payment of principal and interest on bonds issued for \$53,600 of the projects in section 1, paragraph II, B, the project in section 1, paragraph V, C, (7), and all of the projects in section 1, paragraphs X and XIII shall be made from the highway fund.

10 Liquidation. The state treasurer is authorized to deduct from the fund accruing to the university under RSA 187:24, or appropriation in lieu thereof, for each fiscal year such sums as may be necessary to meet interest and principal payments in accordance with the terms and conditions of the bonds or notes issued for the purposes of section 2.

11 Transfers. The individual project appropriations, as provided in sections 1, 2, 3 and 4 shall not be transferred or expended for any other purposes; provided, however, that the governor and council may transfer any balance estimated to be available upon completion of an individual project to other projects within the same section.

## 12 Reduction of Appropriation and Bonding Authority.

I. If the net appropriation of state funds for any project provided for by sections 1, 2, 3 and 4 is determined on the basis of an estimate of anticipated federal, local or other funds, and if the amount of such funds actually received or available is less than said estimate, then the total authorized cost for such project and the net appropriation of state funds therefor each shall be reduced by the same proportion as the proportion by which federal, local or other funds are reduced. The amount of bonding authorized by section 8 shall be reduced by the amount that the appropriation of state funds is reduced pursuant to this section.

II. If any federal, local or other funds, not anticipated, become available for any project provided for in sections 1, 2, 3 and 4 they are hereby appropriated and the net appropriation of state funds and the amount of bonding authorized by section 8 shall be reduced by an amount equal to the federal, local or other funds available.

13 Powers of Governor and Council. The governor and council are hereby authorized and empowered:

I. To cooperate with and enter into such agreements with the federal government or any agency thereof, as they may deem advisable, to secure federal funds for the purposes hereof.

II. To accept any federal funds which are, or become available for any project provided under sections 1, 3 and 4 beyond the estimated amounts. The net appropriation of state funds for any project for which such additional federal funds are accepted shall be reduced by the amount of such additional funds, and the amount of bonding authorized by section 8 shall be reduced by the same amount.

## 14 Expenditures, University of New Hampshire.

I. The appropriations made for the purposes mentioned in section 2 and the sums available for these projects shall be expended by the trustees of the university of New Hampshire. All contracts for the construction of all or any part of said building or facilities shall be let only after competitive sealed bids have been received and only after an advertisement calling for such bids has been published at least once in each of 2 successive calendar weeks in a newspaper of general circulation in New Hampshire or in a trade journal known to be circulated among the contractors from whom bids will be sought with the state of New Hampshire or



elsewhere in the area. The first publication of such advertisement shall be not less than 30 days prior to the date the bids will be received. All conditions considered, wherever possible, it is recommended that the services of New Hampshire architectural and construction firms be considered within the discretion of the trustees.

II. AVAILABILITY OF APPROPRIATION. The appropriations made in section 2 are available for all costs incidental to the erection, furnishing, and equipping of these facilities including the necessary extension of utilities and includes the cost of the services of architects, engineers, and other consultants of such kind and capacity as the university board of trustees may, in its discretion, wish to employ on such terms and conditions as the board determines, and include the cost of furnishing and equipping the facilities with moveable equipment and furnishings not affixed to the buildings, and which are not listed in the specifications approved for implementation of the construction plans. These monies shall be spent under the direction of the university board of trustees.

III. REJECTION OF LOW BIDS. If, in the judgment of the trustees of the university, just cause exists indicating the lowest bid should be rejected, then the contract may be awarded to the next lowest bidder.

IV. REJECTION OF ALL BIDS. The board of trustees of the university has the right to reject any and all bids and, if the lowest bid is in excess of the appropriation, the board has the right to negotiate with the low bidder or with the 3 lowest bidders for a contract for the construction upon terms considered most advantageous to the university. If only one bid is received, the board of trustees may negotiate a contract for the construction on terms considered most advantageous to the university and to the state. Any authorization contained in this act which is at variance with the requirements of applicable federal law and regulations shall be controlled by the terms of the federal law and regulations.

15 Appropriation Extended. The appropriation made to the New Hampshire water resources board by 1971, 559:1,X; 1973, 417:2; 1974, 38:1, XII, and 1974, 38:13 for the specified capital expenditures shall be available for expenditure until June 30, 1978.

16 Amending the 1975 Capital Budget. Appropriation for Water Resources Board. Amend 1975, 504:1, XII (a) by strik-

ing out said subparagraph and inserting in place thereof the following:

(a) Dam engineering and reconstruction

(1) Suncook lake	\$52,200
(2) Mendums pond	45,240
(3) Seaver reservoir	37,120
(4) Bow lake	11,160
(5) Great pond	29,000

Total Subparagraph (a) \$174,720

II. Concord Store Addition Repealed. Laws of 1975, 504:1, VIII (c), relative to the Concord store addition, is hereby repealed.

III. Change of Bond Authorization. Amend 1975 504:7 as amended by 1976, 37:2 and 53:4 by striking out said section and inserting in place thereof the following:

504:7 Bonds Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2 and 3 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$28,000,566 and for said purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A; provided, however, that the bonds issued for the purposes of section 1, subparagraph IX, (d), (e) and (f), subparagraph X, (d)-(7), (8) and (10), paragraph XVI, and section 3 (furnishings and equipment) of this act shall have a maturity date of 5 years from date of issue; the project detailed in subparagraph VIII, (a) shall be financed by a 4 year note; and the bonds issued for the purposes of section 3 (construction) of this act shall have a maturity date of 30 years from the date of issue.

17 Project Description Changed. Amend 1976, 55:4, III by striking out said paragraph and inserting in place thereof the following:

III. Pleasant View Home

Furnishings	\$400,000
Fire and security protection and other necessary renovations or repairs, including architects and engineering fees	370,000

18 Appropriations Extended.

I. Amend 1971, 359:1, VII, (1), (b) as amended by 1974, 38:16, II by striking out said subparagraph and inserting in place thereof the following:

(b) Berlin wayside and recreation area \$15,000\*

\*This appropriation shall not lapse until June 30, 1979.

II. Amend 1975, 504:1, X, (d), (5) by striking out said subparagraph and inserting in place thereof the following:

(5) Berlin wayside and recreation area \$35,000\*

\*This appropriation shall not lapse until June 30, 1979.

19 Exemption for Contract of Certain Departments. Amend RSA 228:4, I-a (supp) as amended by striking out said paragraph and inserting in place thereof the following:

I-a. Notwithstanding the provisions of paragraph I, projects for the fish and game department, the department of resources and economic development and the water resources board in excess of \$10,000 and not more than \$100,000, may be done on a force account basis upon recommendation of the commissioner of the department of public works and highways that such procedure is in the best interest of the state and with the approval of the governor and council.

20 Effective Date. This act shall take effect July 1, 1977.

Sen. SANBORN: This is the Capital Budget bill. A little look into the history of the bill. As you remember we in joint convention listened to the Governor back in February relative to certain capital expenditures of the State for the ensuing biennium. Most of the requests in the basic part of his message have been covered. However, his basic budget request was somewhere in the vicinity of 20 million dollars, general funds. But he had on the back on page 8 of his budget message, certain other requests that he would support, such as the Laconia state school, that was a senate bill sponsored by many Senators here in the Senate that was passe some time ago. That took care of the personnel and upgrading of buildings at the Laconia school. He said he would support a police and fire academy, such a bill was entered and I believe that is in interim study at this time. There were many other things, for instance, that he said he would support. A regional vocational secondary school. This was taken up I believe yesterday and we passed it. He mentioned a convention center in Manchester probably. He said about 8 million dollars. Senator Rock, McLaughlin and myself had a chance to visit one in Hartford, Connecticut and 8 million dollars would only start such a convention center. 30 to 50 million

dollars would be more appropriate. The house took the considerations of the governor and has provided a capital budget bill HB 1191 and the way it was sent to us if you will look in the house record, 108, pages 2510-2529, you will see the house version. Today you have before you the senate version. The proposed amendment to 1191. We'll go through it so you will understand it. The first part of the capital budget, section 1 is the general administration. You'll see under appropriations, the adjutant general's office, there is no change here from the basic document except for one thing that the house did add in, section c. The Manchester armory, boiler repair. Evidently the boiler took quite a lot of beating when the people from Seabrook were there. I don't know why they needed all the extra heat for Anyway the boiler does need some major reports for \$3,500.00. Under administration and control, look at the first item at the bottom of the first page you'll see window replacement. Two years ago we authorized the replacement of the windows here in the state house. This is to replace the windows in the annex across the street. Those of you who have visited some of the offices over there know when the wind is blowing strong in the middle of winter, the snow drifts in. The windows are a great source of heat loss which carries us into section b at the top of the next page for a sum of \$993,000. This is heating, cooling equipment and controls installation, mechanical controls and an installation of automatic energy management systems including etc. in the following buildings: the state house, the annex, the legislative office buildings, the library, Hayes building, Morton building, supreme court, health and welfare and CDP building and health building on South Spring street. Those of you who are here in the 75 session remember that we authorize a check be taken by heat seeking instruments from the air to photograph the various buildings that could identify the heat loss in these various buildings. From the result of that the engineering studies have added in this section d which is in the administrative and control section to eliminate some of this heat loss that we have in these buildings of the state government. It is anticipated that anywhere from \$30,000 on up may be saved in one winter if we go and proceed with these changes. We go down into the next part, roman numeral three the Aeronautics commission. Here you notice that the bill that was passed yesterday relative to the change in the amounts of money given to us by the federal



government 90 federal, 10 state, is enumerated here and shown that we can do quite a lot of work on many of the airports around the state at a very little amount of money for us. We have taken full advantage in this bill of federal funds to update and improve the various airports of the state. We turn over to roman numeral four, education. Basically the education in here is enumerated in here the first part section 4 is a Voc tec colleges around the state. Senate finance and Capital Budget, look carefully at this. There were five or more items of major construction requested by the various voctech by the Department of Education. We have taken the five top priorities for the voctech colleges. Number 5 was Berlin, in addition to the library and classrooms, \$770,000. Number 3 on their priorities was a new classroom laboratory at Laconia Voctech, you'll see that on the second page. \$1,673,000. Down further on that same page you will see classroom and laboratory addition at the Manchester voc-tech: \$3,662,000. This is a number one priority. Manchester has been left out at the bottom of the list of voc-tech colleges for a good number of years. We felt that it was about time that they were picked up. Two and four on the next page, classroom-laboratory addition at Nashua and the cafeteria addition. The classroom-laboratory addition \$1,927,000, cafeteria addition: \$335,000. Down below Portsmouth voc-tech: you remember that earlier we brought a bill in here that told about the sinking of Portsmouth voc-tech college slowly out of sight in a very bad situation and we approved a bill that allowed the voc-tech college in Portsmouth to be moved outside of the city limits. Under there you see an item here for \$150,000 for land acquisition and engineering and hopefully the department of education will find some land and do some engineering on some of the old blue ledge that the sea-coast is noted for so that the voc-tech college when it has to be rebuilt in Portsmouth will no longer sink out of sight. Down further you will note health and welfare. We have taken good care of the three prime items of the Glencliff, the New Hampshire Hospital a boiler replacement. I might say that the Governor, this was in his Capital Budget and he said it had to be a cold winter but various people who have come before us in testimony before both the House and Senate committee, have testified that it would cost us more in the long run to put in a cold burner so this is still an oil burner for \$400,000. The House added and we concur with the

Philbrook drive for \$16,000. You may wonder what this is all about. On the backside of the grounds over towards Clinton Street at the hospital there is one section of buildings for the children. To get those children along and over to the main part of the hospital, it means that they have to go out onto the street and then back into the grounds into the main part of the building. The only thing that Philbrick drive is to build a drive between the children's section and the main part of the hospital so the children will not have to be leaving the grounds. Number 5 here is a very interesting item. This came to us originally for an amount between 6 and 7 million. What it was was a second try to build a new forensic unit. HB 502 which now lies on the table with us did try to do the same thing. We have it amended and laying here on the table in the senate. After a good deal of deliberation starting with a good many people, and believing very firmly that the laws relative to those people that should be assigned to a forensic unit should be changed as 502 as amended would have done. We have come to the conclusion that there is no need for a 200-bed forensic unit in the state of New Hampshire. Between 125 and 140 beds is more than sufficient. Accordingly, some years ago we had a bond issue to renovate the Brown building. The Brown building cannot at this time be started because it is waiting for work to be completed on the medical unit on another building. As soon as those are completed then people can be shifted out of the Brown building and into the two newly renovated buildings and they may proceed full speed with the Brown building. In our talks with the engineers for the sum that is shown here 1,005,000 over and above the amount that is in the capital budget right now for the renovation of the Brown building, will renovate the Brown building and prepare it and secure it and make it a forensic unit. It provides all the necessary beds that would be required for a forensic unit for the state of New Hampshire. Over onto the next page section c, these are the other items that were in the Capital Budget that were not in the senate bill as passed that does cover many of the small items that they wanted to have done. There is one addition, number 7. The Meredith Center road bypass. All those people that may be familiar with the Laconia State School know that there is a highway that cuts off of the main road just below the school, comes up the hill, right through the middle of the school and continues on up to the Meredith.

Senator Smith uses it as a regular run when they are going through Laconia. This is a hazard because these children up there are not in the best of condition and aren't able to jump lively out of the way of a speeding automobile. It is a dangerous hazard to these kids and they are continually going back and forth between the various cottages. So we recommend and endorse the House's recommendation, that \$400,000 be spent for a Meredith center road bypass. It was the suggestion of the committee that perhaps this should be known as the Senator Smith highway. Next comes the youth development center and you note item c. This is for a second home somewhere in the Manchester area for girls. It has been found that the one that we procured at the last legislative session for the boys has done an exceedingly good job. It gets the boys out of the atmosphere of the school, they are able to go out on work release and so forth and they have been an addition to the community. The situation for the girls at the youth development center is very crowded and we feel that the expenditure of \$125,000 to purchase, renovate and equip a home similar for the boys that we did in the last budget would be very advantageous to the girls, to the school and to the entire community. You'll notice that the next item is replacement of underground steam lines. \$131,000. Right now much heat is being lost from these steam lines going up through the ground in the middle of the winter you could almost have a vegetable garden out there in spots. The same in many of our institutions around the state. They buried the old steam lines in the ground and they weren't properly insulated and now we are losing more heat through the ground than we are able to pump into some of the buildings. The next item is the Port Authority. \$100,000 and I think you can understand the improvements; site improvement, grading and paving of parking area near Barker wharf, Barker wharf repairs and removal of old piles. I want you to take particular note of the notation underneath. "The Port Authority, with the approval of the governor and council, may accept gravel/fill from the Army Corps of Engineers dredge project on the Piscataqua river." We were given to understand that there was a dredging going to be done on the river by the Army Corp of Engineers and there are those people who may be familiar with the area know that just about the old bridge approaches there quite a bit of a swamp area right between the road and the gypsum plant. What they wanted was some-



thing like 500,000 dollars in their budget for site improvement in that area. What we are seeing in this note is that with governor and council approval they may accept the debris, and they say there is good wash gravel from the bottom of the river, and make that fill in that area. This is a lot cheaper than 500,000. There isn't much in the next section roman numeral 8 except when we get down to Berlin wayside and recreation area. When we get into the notes I think that when you find when you get on the very back page, page 23, you will see some notes relative to the the Berlin wayside and recreation area making available capital funds that had been appropriated in past years to be added to the amount that is shown here and make this a viable area, picnic, camping and so forth area, just north of Berlin. Over on the next page you will see \$50,000 for the continued work on Fort constitution. I think that we all know of Fort constitution and its place in the history of the state of New Hampshire and slowly over the years this would be reconstructed and brought back into its original form. Here we are adding \$50,000 more towards the continued reconstruction of old Fort constitution. The next item is the Hampton beach bath houses and we were informed in committee, I forget exactly how the commissioner put it, but I believe he called it an Arabian fort and he said they were built back in the 30's and in very bad need to have some work done on them and bring up their appearance because this is a public bathing area that is maintained by the state. The next item I didn't see directly under that, Construction, reconstruction, removal or relocation of department buildings, including but not limited to forestry district headquarters in Lancaster and Northwood, \$60,000. What they are anticipating doing here is establishing a forester's district headquarters in Lancaster and in the town of Northwood or somewhere in those two areas. As you know we have the forest fire wardens district forest fire wardens, other forestry people who are looking for bugs, looking for the white pine etc. and none of them have a place to call their own or to answer a telephone. Most of them do it out of their own homes and at last the forestry have prevailed on the commissioner to put in a place and establish a small place with two or three rooms so they can have a file cabinet to keep their stuff and a telephone so that when anybody is in the area wants to get ahold of one of these people he can just call him up on the telephone and know where he can find



him. We continue on to the State's prison. Here both the House and Senate concurs in about every item that the prison has requested. We have the feeling that for all too long we have let wardens and the people that have to run the prisons that we have just given them miniscule amounts to try and run their prisons, and rehabilitate the prisoners. For once we have broken down and given them just about everything that they have requested including in item f a halfway house, purchase, renovation and equipment. The prison has been before us several times requesting halfway houses. These are so that when they are ready for release they will go to the halfway house and spend their last days of their sentence before they are released and getting back into their communities. They have suggested that this halfway house shown in item f be perhaps in the Hillsborough area since that is the biggest contributor of people to our state prison. You people don't want to laugh too hard, Rockingham is number two on the list. Notice on the farm expansion. Here again we are trying to expand the farm because many of the products raised on the farm, meat and produce, go to feeding the prisoners and also, as more can be expanded, the more that they can cut down on our food bills for other institutions of the state. On the next page number L: Study to include planning, design and engineering for a new or renovated state prison facility on present prison property and the last lines were added. We feel that there is no need to go around the state in trying to find some new pieces of property to put a prison. As we understand it there is some 600 acres up here that is owned by the prison now. It seems to be working pretty well and we don't disagree with the probability that we may need either a new renovated prison; why move it and give up the land we already have. The next item is the garage facility for the department of safety, for construction and equipment. This is a Butler type building to go alongside in the vicinity of their new department of safety building out on the heights. The basic reason for this is that they can bring their vehicles in and have the maintenance taken care of right there in their own vicinity. We agreed with the request of the Department of Safety and with the House. The next item is two substations to be used by the State Police and by the Department of Safety and by the Motor Vehicle Department similar to the one that is now under construction in the town of Epping. They are asking for two of them, one

in the Keene area where they do not have good facilities for registering, holding hearings etc. that are required in the various parts of the state and also in the Moultonboro area. Over on the next page roman 12 is interesting. Water Supply and Pollution Control Commission, the Winnepesaukee river basin. People have been looking at this for I don't know how many years in their capital budget and we are assured that this will be the last time that the Winnepesaukee river basin will appear in the capital budget because these amounts shown here completes the problem. Over on the next page roman numeral 13, public works and highways, reconstruction of Hazen drive. This drive is the road that goes by the John O. Morton building, goes out through the new health and safety buildings. With those two new buildings out there in that area and the department of safety building, the John O. Morton building and the supreme court building, it is anticipated that that Hazen drive will be having anywhere from 2500 vehicles a day or more using that road. There is not much more than a class 5 highway that has been scrapped together and tarred right now. With the advent of the more people that are going into that area to use the new facilities that the state has put in on Hazen drive, it is only sensible to reconstruct Hazen drive into a road that will be able to carry the increased amounts of vehicles that will be using it. The next item is the liquor commission. Electronic cash registers. When it first appeared in the capital budget it was 6,000,000. After much haggling and each time they came back to us the price was going down. It is a wonderful thing about these cash registers. They are supposed to be able to work with this new idea, you will notice that they can just wave a wand on the stripes on the side of a bottle of whiskey and know just what the price is. The only thing is that the liquor industry has not gone into that type of thing quite yet. They expect it might be some three or four years down the road. We couldn't see exactly spending 6 million and then it came down to 4 million to buy cash registers that we can't be using for about 3 or 4 years down the road. However, we do know that some of our old cash registers are wearing out and we have got at least three new liquor stores in this bill and they are going to need cash registers so we put in  $\frac{1}{2}$  a million so that they could get the cash registers. Now we come to section 2 of the bill. This is the university of New Hampshire and the university system. The first part of it is the carrying

on of the life safety code and handicapped study so we can renovate and fix up our buildings so that they meet the life safety code and the requirements of those that might be handicapped. There is a small item of land acquisition and none of the campuses right now anticipate any great need for further acquisition of land however in some spots there are one or two private homes that are now almost surrounded by some of the colleges in their past expansion and when those lands becomes available at the correct price then the trustees would like the authority to be able to pick these up and add it to the present existing campuses. Drop down to the Durham campus: Implementation of energy study. As I spoke about once before this is the steam pipes going under the various places, across the campus and losing more heat than they actually have pumped into the building. After a study that we authorized a year ago, two years ago, they are not ready to start the implementation of part of this, of making a low-pressure loop around the entire campus and this will take care of Main street, part of it and some other part of the campus and we anticipate from their estimates that we are going to see a savings that is considerable in energy by carrying on with this implementation. The next item the senate added in. As you know the federal government came out with a title 9 relative to athletic facilities for girls that they must have equal facilities with boys. We haven't gone whole hog with this one because it will be several hundred thousands of dollars but we did for the Durham campus, start the planning for the modifications that are necessary to carry out the federal title 9. This can make a difference, this shows that at least we are beginning to look at this federal title 9 because if we do not in the future carry it out, we can jeopardize any federal funds that would go to the university. The next item is kind of a small item that Senator Blaisdell wanted. For some time now we have discussed the construction of a liberal arts building on the Keene campus and here it is finally. \$4,950,000. We don't give everything to Keene, we can't let Keene get more than Plymouth but we have added the renovation of Rounds hall in Plymouth and also an expansion on their dining hall. Now this renovation of Rounds hall actually in the long run will save us money. It is one of the older buildings built back before 1900, it has a terrific heat loss, it needs to be insulated, it needs to be renovated and fixed up into more modern style for classrooms and so forth. This has



been now a request of Plymouth campus for at least two sessions, I think this is the third session. It seems to me that I remember going up there in 73 and they were requesting then that it be fixed up then and now we are getting around to it. As far as the dining room expansion goes this is self-amortizing. The students of Plymouth pay for the addition of the dining hall by extra charges on their meals. The next item you will see that the Merrimack Valley branch has a construction of a second building. I have looked at a good many plans and designs of buildings and for once I think that I have seen one that is almost sensible. The way the Merrimack Valley branch is laying out that building to build the first part of the building in this capital budget with five years, ten years down the line if you feel that you want to build a couple of more, it all works like a honeycomb. It all fits very neatly together. So actually no matter how much you extend in which direction they are still all the same building. It is a very interesting type of engineering. The next item on the New Hampshire network, Senator Rock requested this, it seems that their radio tower and I am still kind of wondering about this. I thought radio towers were steel, anyway these items here the microwave repeater and other electronic equipment, they want to put a security fence around it so it won't burn again and concrete block house and repaint the tower is to get the New Hampshire network back onto the line where they have been burned. To continue here to section 3. Section 3 is for the appropriation for the restructuring of the Hooksett liquor store. You will remember that we had this bill here once before, we put it into the capital budget bill. This calls for two new stores, one in the northbound lane, one in the southbound lane, 8,000 sq. feet each building. The whole thing tells you about the operation of the store, removal of the temporary store and for this appropriation \$1,500,000 is requested. I call your attention to roman numeral 6 relative to the rest area information centers authorized and on this we had quite a discussion in the committee on this when the bill came up before us. They were going to have the liquor store at one end of the parking lot and the length of a football field away from it would be the rest area. We on the committee questioned them about it and said, wouldn't it be more sensible to have your rest area and the liquor store moreorless combined using one blank wall, one common wall and the liquor commission said it would be an



excellent idea as long as no weather can go through that wall and into our liquor store. They have to come out of the rest area and into the liquor store for security. We agreed but we do feel that by putting them this close together that people stopping into the rest area to get information would be more inclined to walk around the corner to buy whatever liquor they might be interested in. Section 4 is the Hampton liquor store. This is for the construction of a liquor store on the southbound lane of route 95. The construction information is the same thing as in the previous one. The sum requested here is \$1,000,000. It is felt that the way that I-95 comes down from Maine and route 16 cuts into it in Portsmouth it is almost impossible for the people coming south to know where the liquor store is in Portsmouth. Quite available and visible on the way north but coming south it is almost impossible. So if we go down by the area where the toll booth used to be in Hampton now being moved and put a liquor store on the southbound lane in that area the liquor commission feels that we can gain about \$1,000,000 a year from liquor sales. We thought it might be a good idea so we have added it into the budget for that extra liquor store. Section 5 I don't think you need any further description. Senator Bradley did a beautiful job on this yesterday, the central New Hampshire turnpike Merrimack interchange. We feel that this rightfully belongs to capital budget items. It carries out the entire part of the bill just exactly as Senator Gardner brought it before you yesterday. The remainder of the bill is carrying out the various footnotes and so forth that are required in such a bill of this type. How the expenditures will be made, how the bonding issues will be handled, the powers of the governor and council, expenditures for the University of New Hampshire, etc. When we get over to the very last page I want to get your attention to the very top of page 23. There is a little change here in the wording. This is a capital budget item of 2 years ago. This is the Pleasant View home. But they found that within the last year or so that the roof was leaking and the controller in the attorney general and so on and so forth said that the way that it was worded then, they couldn't fix the roof. So we have added all repairs. This gives them the ability to repair the roof. You will note just below that the two items that I mentioned on the

Berlin wayside recreation area. That appeared in a couple of other capital budget programs and we are picking up the money from there. I think after this discourse of mine that you might be interested in the bottom line. Everybody grab ahold of the chairs, the grand total is \$61,337,080 but \$844,146 comes from other funds. \$16,300,000 come from other bonds, basically the Merrimack interchange. \$11,000,900 comes from federal funds. \$2,933,600 from highway bonds and chargeable to the general fund bonds is \$30,258,434. Put them all together and you get the total funds required by this. I'll try and answer any questions.

Sen. MONIER: Senator Sanborn on page 22 where you have the series of dams and reconstruction, could you indicate to me if that money lapses in 78 or 79?

Sen. SANBORN: These will be lapsing in 1979.

Sen. HANCOCK: I notice on page 9 at the top of the page and on page 10 toward the bottom under water resources board you have set up funds for the Baker river watershed site. Could you tell me at what stage that development now is?

Sen. SANBORN: I believe the first one may be on one site up there. The second at the bottom of page 10 is relative to a dam site up in there to prevent the flooding of the Baker River. There are several sites in that area that they selected that would prevent some of the flooding in that area. I believe the one under the water resources is to work one of those sites.

Sen. HANCOCK: You do think that they are nearing conclusion on this?

Sen. SANBORN: There actually hasn't been too much done up in the Baker River area in the watershed because we have had higher priorities for other things and actually haven't got into it.

Sen. HANCOCK: Is this the first time that the Baker River sites have been in the capital budget?

Sen. SANBORN: No.

Sen. HANCOCK: Are we establishing policy when we allow the Hampton liquor store to be open 7 days a week?

Sen. SANBORN: This is only carrying on the present requirement. Similar to the one that we have on I-93.

Sen. HANCOCK: I understand that we have it on the one on I-93 but this would set up a policy for the Hampton liquor store also?

Sen. SANBORN: It would include it.

Sen. HANCOCK: Question of the chair, do we vote on this as an entirety is there any opportunity—we either take the package or not?

The CHAIR: The chair would state that the question of the parliamentary procedure would be as follows: the question now before the Senate is the adoption of the amendment as offered by the committee. Upon the adoption of that amendment then the floor will be open for further amendment. The chair will remind the senate that those amendments should be in writing.

Sen. HANCOCK: Would it seem logical to the chair that it would be rather difficult to have amendments in writing inasmuch as we received this only this morning?

The CHAIR: The chair would only state that there are existing probably three or four amendments at the present time to the bill.

Sen. LAMONTAGNE: Senator this capital budget proposal, how does it compare with the one two years ago, is it very much larger?

Sen. SANBORN: Total overall would be larger but as far as general funds about the same time.

Sen. MONIER: On page 6 at the bottom of the V5, renovate two top floors of Brown building for use as a maximum security unit, \$1,500,000. On that item, if I recall at the hearing on it, there was some figures brought up that there is still \$2,000,000 odd dollars available for the renovation of Brown building from the last capital budget. Is this in addition to that?

Sen. SANBORN: This is in addition to it.

Sen. MONIER: That 2 million dollars was set aside for certain renovations. Has it been taken into account that some of those renovations would be going into the security aspects of it?

Sen. SANBORN: That is right, they would be. That part of it was to renovate the building and I think it was something like 2.9 million. This is security screen in the windows, stairwells etc.

Sen. MONIER: There was no way in which that 2.9 million could be earmarked for this and not what it was planned for. If you look in the old capital budget, in short, there isn't any interchange between the monies available.

Sen. SANBORN: This puts the both of them together. The 2 million previous and puts it together in one lump sum.

Sen. MONIER: On page 12 I see we now have a second building for the Merrimack Valley branch back in the capital budget again. Can you inform me if this was in the House version that came over?

Sen. SANBORN: No sir.

Sen. MONIER: Then it was put in by the Senate?

Sen. SANBORN: Yes.

Amendment adopted.

Sen. Downing offered an amendment to HB 1191.

#### Amendment to HB 1191

Amend section 1 of the bill by striking out paragraph XIV and inserting in place thereof the following:

#### XIV. Liquor Commission.

A. Electronic cash registers	500,000
B. Salem store No. 34.— Modifications of the entrance- exit roads to improve traffic flow and removal of existing disconnected light fixtures	9,800
Total paragraph XIV	<hr/> 509,800

Resolved that the Legislative Budget Assistant is authorized to correct any total including the total of bonds authorization to reflect the effect of this amendment.

Sen. DOWNING: This is a rather simple amendment. It was one which was given to the chairman and I am sure that he intended to include it but it just never got there so he suggested that I bring the amendment forth in this way. The \$9800 dollars is to do a job that the department of public works was given an estimate on last February for redesigning the entrances and exits to the liquor store on route 28 in Salem. It has become quite a traffic hazard there and the



work really ought to be done so add \$9800 to the bill. I urge you support the amendment.

Sen. SANBORN: Mr. President I rise in support of the amendment as required by Senator Downing. This should have been in the capital budget. Senator Downing gave me the material for it and through my lack of memory of something I forgot all about it, lost the papers and I highly endorse the amendment of Senator Downing.

Amendment adopted.

Sen. Downing offered a further amendment to HB 1191.

Sen. DOWNING: This amendment pertains to the building across the street, the Eagle hotel. It would include it in the capital budget. This has been nominated to the national register of historical places and it is a Concord landmark. I don't ask you to pass judgment on the merits of the building or not I just ask you to include it to see what further may develop. We are constantly growing and we are constantly looking for office space and other spaces and to have a building like that right across the street in such close proximity to the state house and considering that the federal government may participate for half the cost of renovating this and so forth as well maintaining it later on in line with preserving it, I think it is something that we should look at. Even if the decision is not to do it I think you should have as much exposure to it as we can have. Everyone ought to think about it. It could very well be a valid decision not to. But I think everybody should thoroughly understand and agree with that decision because they are going to have to explain it one day. It would be a heck of a thing to have a property like that go by and have somebody say gee, I didn't know it was available. I think the Finance committee has taken a look at it and that they have come to a conclusion generally at least, that it wouldn't be a prudent investment. I just think the entire Senate should have an opportunity to weigh it and think about it and if it goes on here as an amendment, it will go to the conference committee, I am sure that the whole thing will be assessed very carefully there and we will have a final recommendation. By that time everyone will have been aware of what was available and they will understand the reasons why it was and was not included and will be able to live with the decision.

Sen. LAMONTAGNE: Senator, seeing that you

have a figure of \$275,000 and I am sure introducing repairs and equipment that there must be some idea as to what they are going to do with it.

Sen. DOWNING: I am not making that type of recommendation Senator. I imagine if you were offered modern space to any of the departments you would certainly have a rush for it. I am not here to make that recommendation. I understand the building is not in very good repair, there are things that have to be done to it. There was a communication from Gus Gilman that indicated the possibility of federal government as we heard earlier, that had taken full advantage of federal funding, over half of that could be taken care of by federal funds.

Sen. BERGERON: Senator Downing, you say that there are federal funds available for the renovation and so forth. My question is, isn't there a possibility of receiving federal funds for the purchase price too?

Sen. DOWNING: Yes, and for the future maintenance of the building as far as the roof and siding and things like that, preservative maintenance, it would go on ad infinitum.

Sen. TROWBRIDGE: Senator Downing said that you don't pick up a building like that every day and that's for sure. Historic or not, the Senate Finance committee and the Capital Budget committee, all of us considered this very carefully. I have been over through the building and I think other members have been through the building. If you were to buy that building you would probably have to completely gut it and start all over again. Interestingly enough we were yesterday discussing the bill we owe to Merrimack county for the contract of renting the Eagle hotel for the welfare patients. That bill came to \$250,000 for a six month period which we did not use. I just wonder how many times we have to buy the Eagle hotel. I figure we already bought it under that other contract when it was sitting there and we paid something like \$250,000 rent. Here they are only asking \$275,000 to buy the thing that they charged us 6 months rent for \$250,000. I frankly think at this point that there is a limit to our taking over buildings—it would be okay if it were historic and good, that would be one thing. It is historic I am sure, but it is a pile of snakes and you will end up spending 8 or \$900,000 dollars to take that thing and make it into something. Our committee feeling is clearly that we had opportunities to buy the building then but we missed it because Stu

Lamprey didn't like it. We had an opportunity to buy the bank building and that went by the board. They are both solid buildings now Warren Reno is in there and other people. We missed the chance to buy the two things here that would have been the best. It has wooden supports, electricity, it is really in fact condemned. We felt that at this point that there is a limit to the largesse of the state to keep buying the Eagle hotel.

Sen. LAMONTAGNE: Senator do you realize that there have been more laws made in that Eagle hotel than there was here in the State House back in the old days?

Sen. TROWBRIDGE: I am sure that we will call it the Larry Pickett State Office Building. But we can do that anyway. If you are considering just buying a plot of land fair enough. But that is all.

Sen. SAGGIOTES: Mr. President I rise in strong support of the amendment. I offered this in committee and the committee in its wisdom rejected it and I think we are taking this very lightly today. We are having a lot of fun with it. I think it is very serious. The reason I support this very strongly is because I was in the legislature when Senator Trowbridge states we rejected the two buildings on either side of the state house and I thought that was wrong. I supported the purchase of those buildings. Now looking at today's prices as Senator Trowbridge has stated, the land of that property across the street is worth the amount of money that we are talking about here. I think it is being shortsighted unless we don't want to have offices of at least a few of the departments that service the people of New Hampshire in close proximity to the state house. Again, I think in planning ahead I would hate to look back some day and say I was one of those that voted against the purchase of the Eagle hotel. I think it is a sound investment for the land alone.

Sen. TROWBRIDGE: Senator Saggiotes if there were a way to put people in offices there where would you park people?

Sen. SAGGIOTES: Senator I will have to answer you in this way. I would park them, of course this would be a state building and I believe the state owns the 2 million dollar parking garage. At 10,000 dollars a space which I voted in opposition to, and this is where I would park them. Very simple.

Sen. TROWBRIDGE: How are you going to park them when the House members are there?

Sen. SAGGIOTES: Certainly there could be some accommodation made to take care of the limited amount of space required.

Sen. TROWBRIDGE: But is not the thrust of the Concord city planning and everything around this city, to try and decentralize some of the traffic so that people can go and try to drive and find a cluster like we have done on the heights. Isn't that modern day thinking that we are not going to stuff everything in this quadrangle and this would be going against exactly the Concord city plan?

Sen. SAGGIOTES: I disagree with you Senator because I think the legislature has taken a position that they want to keep the basic state government, the legislature, the executive office, in this area here. I believe that we should be able to accommodate the public that wants to come in and visit at least a couple of department agencies.

Sen. SANBORN: Senator I was a little bit interested when you . . .

Sen. SAGGIOTES: It's a good bill.

Sen. SANBORN: You say you voted against the parking garage.

Sen. SAGGIOTES: Yes I did and I'll tell you why Senator. In my opinion that was a much worse investment than what we are talking about at the present time.

Sen. SANBORN: Senator when they were describing the parking garage that was erected for 2 million dollars, 10,000 dollars a space, wasn't it stated at the time that there was one reason why that was only two stories high because the city of Concord anticipated in time, with many of the buildings on that side of Main street would be eliminated and there would be a parkway directly to I-93 so that people could look up through and see the state house?

Sen. SAGGIOTES: That may be so Senator but I had anything to do with the planning in the city of Concord I would make sure that those buildings remained and if possible erect buildings on the other side of that parking garage because aesthetically, I don't think it does too much for the city of Concord.

Sen. SANBORN: In other words, you don't think that the people driving by visiting New Hampshire, the capital build-



ing in Concord, should be allowed to have any view of it if that is what they did have planned?

Sen. SAGGIOTES: If you are talking about the buildings across the street that you would be raising, they are going to have a lousy view of that parking garage as the tourists get when they are going on interstate 93.

Sen. POULSEN: Senator Saggiotes, I am inclined to agree with you and Senator Downing, do you visualize if we do this and people are crossing the street, we may have to move Main street to make another Senator Smith boulevard.

Sen. SAGGIOTES: Possibly.

Sen. HANCOCK: Mr. President, members of the senate, I am the senatorial representative of the city of Concord. I want to tell you that I have heard this type of argument for at least 30 years as it relates to a variety of buildings. Many of which in the city of Concord, would have liked to see the city, the state acquire, and would have worked cooperatively with in so doing. This is the reason that I introduced the bill which I did and which you kindly passed and is now in the governor's office and I hope he signs, which says that there shall be a liaison between the city of Concord and the state of New Hampshire relative to the state lands and the state buildings in the city of Concord. There has never been to my knowledge any state consideration of office space needs as it relates to public access as it relates to parking needs or visitors, as it relates to parking needs of employees. I must say that at this time I oppose the amendment because it is just one more example of a shoot from the hit type of acquisition. I think that if all goes well that we can come back here in another session and have a plan laid out that will give us some direction as to what we should do relating to lands and buildings in the city of Concord but I must agree with Senator Trowbridge that there have been reviews done, I think on a fairly professional basis as it relates to the capability of the Eagle hotel. The plumbing, the wiring, the whole structure is in pretty bad shape. This would just be a start I think towards a program that might not best fit into the whole scheme that we need to adopt.

Sen. HEALY: Thank you Mr. Chairman. I rise in support of the amendment and also would like to ask one question of Senator Downing. Senator should we purchase that building? I know this is just a study but if it should become effective and we did buy it, would you plan a few parking spaces in

there for some of the speakers friends like Mrs. MacAvoy and others?

Sen. DOWNING: We should be planning more parking spaces Senator.

Sen. Blaisdell moved the previous question.

Adopted.

Sen. Fennelly requested a roll call. Seconded by Sen. Sanborn.

The following Senators voted yea: Poulsen, Bradley, Bergeron, Saggiotes, Healy, Brown, Bossie, Fennelly, Downing, Preston.

The following Senators voted nay: Lamontagne, Gardner, Jacobson, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Sanborn, Provost.

10 yeas 12 nays

Amendment failed.

Sen. Preston moved an amendment to HB 1191.

#### Amendment to HB 1191

Amend section 1 of the bill by inserting after subparagraph VIII, B (7) the following new subparagraph:

(8) Hampton and Rye:

repair of seawall, jetty, and

harbor improvements

300,000

The legislative budget assistant is authorized to correct any totals including the total of bonds authorized to reflect the effect of this amendment.

Sen. PRESTON: Mr. President, I consulted previously with members of the committee. This regards as could be expected, to repair of seawall, jetty and harbor improvements for Hampton and Rye harbors for the total of \$300,000 dollars. Initially there was in the house I think, a figure of \$260,000 for seawalls and repairs down at the beaches. Back in the 30's when the state assumed control of the ownership of the beaches they also assumed responsibility to maintain

these. It has been custom that monies generated throughout the beach—we had bonded indebtedness, the bonds will be paid off this year as they pertain to the awall repairs and so forth. In order to keep this on-going maintenance program I urge that we incorporate this into the bill because if we don't it is another case of going to cost us more later on. We just approved parking meters for Hampton beach. They are supposed to bring in an additional \$70,000 so I don't think that I am asking anything that is going to cost the state any amount of money. It should be amortized over the years through the income through these various sources down there.

Sen. BERGERON: I rise in support of the budget and everything that we have done with one reservation. There have been a number of things, of course most things in the capital budget I cannot quarrel with, however, there is one little thing that we neglected in the capital budget that I think should be put in. I am sorry that I have to bring this matter before you this afternoon. I thought the matter was resolved. It was my understanding that a group representing the Stafford county delegation met with Commissioner Flynn of the Safety Department and the matter was being handled. I now find out this morning that it is not. This involves Strafford county. It just so happens in our county that encompasses some 97,000 people, we have absolutely no facilities from the Safety Department whatsoever. You people saw fit to put the state policy barracks over in the hinterlands of somewhere, that no one could find and get to and I think the problem has gotten out of hand. The people in Strafford county have nowhere to go to get a registration, to get a transfer or anything else. What my amendment is doing is simply transferring one word in the capital budget. Moultonboro for Rochester. It is desperately needed and I ask my colleagues to go along with the amendment. It requires no additional capitalization. As I say it is just a simple transfer of one word to the other. When this matter was brought to my attention this morning I discussed it with the chairman of the capital budget committee and my amendment follows his recommendation.

Sen. TROWBRIDGE: I understand what Senator Bergeron wants to do. I think the problem that we have is that all the way through this capital budget the department of safety has been coming in and saying that they want to put up the barracks in Moultonboro and in Keene. We haven't heard

any evidence that the Department of Safety wants to put the barracks into Rochester. I understand that Rochester was picked on the flip of a coin between Rochester and Dover which I don't think is too good. I just think that we are really now playing games. Obviously you take a look at the barracks around and the next logical place is at the head of the Lakes region not over in Rochester. That is why the department of safety came in that way with that recommendation. It has been in for at least 2½ years. I am really at this point thinking that I for one am not going to change because I think we ought to have the things in the places where the safety department without any pressure, said they thought they were needed.

Sen. BERGERON: Senator could I ask you who told you that Rochester and Dover were decided on a flip of a coin?

Sen. TROWBRIDGE: Should I tell him.

Sen. BERGERON: I think what you should do is to go back number one to your sources. I kind of resent that I know you are being flip, but this is an important matter to the people of Strafford county. Senator do you always do everything a State Department asks you to do?

Sen. TROWBRIDGE: No I don't always do everything but when it comes to land and building type things and when you see a department come before a committee with a worked out scheme of where the troop barracks should be and they have set forth their traffic routes and what the regions are, it is pretty difficult for me to have a go all the way through the process here, House and Senate, never having heard on word about Rochester until the bill comes on the floor and all of a sudden you are going to take it from Moultonboro to Rochester. At that point I begin to not worry about just depending on what the department told me; I begin to worry about what my own head tells me.

Sen. BERGERON: Can you tell me how many people are in the Moultonboro area?

Sen. TROWBRIDGE: It is not the area it is the geography. It is the head of the Lakes. That is where the roads come back down in from the mountains. That is where on a travel circuit you would put the barracks.

Sen. BERGERON: Senator, is the State Police of the Motor Vehicle Department in existence to patrol and police people or trees?

Sen. TROWBRIDGE: Highways.



Sen. BERGERON: Do you have any statistics that gives you the number of accidents in the Moultonboro area as opposed to the Strafford county area, both traffic wise and accident wise?

Sen. TROWBRIDGE: Here we are on the last day, I wonder why there wasn't some presentation of the other statistics that you obviously have Senator to the committees that this should be there and in Rochester. Why were not those other statistics not brought out?

Sen. BERGERON: Senator would you believe that the only reason that this matter is being brought out on the floor today because some where in the line of communication, someone decided to overlook this. The Strafford county delegation, their executive committee met and it was agreed that they would do something for this area and now all of a sudden we find that your most populous areas are being overlooked for the Moultonboro area. My question with them building a barracks in Moultonboro. If they want it there, let them have it. I fought that battle with Epping. But what I am saying to you is I think that we should serve the people where the people are. The greater majority of people and if they are willing and you are willing to put a full motor vehicle division in Strafford county, I could buy that.

Sen. TROWBRIDGE: All I am saying here senator is that none of that was brought forth to the committee. Senator Sanborn is confirming that because I wasn't there at all the meetings. I never handled it before and if you were to come in and say there has to be another one in Rochester we could examine that one on its merits. All I am saying is that I do not like the last minute shifting out of Moultonboro to Rochester. That smacks of poor power play.

Sen. BERGERON: Senator, I don't want a barracks in Rochester, I don't think we need a barracks in Rochester, I approached the amendment on the basis of what the committee chairman and I discussed. If I brought in another amendment leaving the Moultonboro barrack in there but setting up a motor vehicle division in Strafford county, would you support it?

Sen. TROWBRIDGE: All I am saying here Senator is that what?

Sen. BERGERON: Licenses and registrations. A substitution that is all I am asking for. I cannot understand why we have such a problem with the Department of Safety.

Sen. TROWBRIDGE: I will defer to Senator Rock on that.

Sen. ROCK: Thank you Senator, I would just like to tell you that I have the same concern in another area and I have discussed this matter with Mr. Flynn and Director Clarke and the answer seems to be there and viable. I brought it up because of the long distances some of my people had to travel to get license plates and register their car. Part of the problem lies in the office over here where they tell us they don't have enough people to handle the mail. But you know Senator and I know that a lot of people don't want to do it by mail. They want to take their check, they want to walk in and put the money down and walk out with the license plate. Sitting over there in the yard is a very nice van and the very nice van is very able to go to different parts of the state on different days of the month and take care of this problem. One of the problems with the van is the comptroller's office says you have to have a very expensive cash register in the van so that they can keep track of the money that they take in. Senator Trowbridge and Senator McLaughlin in Senate Finance will remember that I brought this issue up. I said we have to do something to the people—you take all the people from Milford coming into Nashua. You waste more gasoline than President Carter could ever think of saving just to get your license plate. Director Flynn has assured me that if we would give him the people, which we did put in the budget, that we put in two people in the budget to run the van then he would take care of the problem. Whether he takes care of it with the van or whether he has someone in Rochester say okay at the city hall, okay we have a room and two days a month or three days we will have a team in there to take your license plates. It is a feasible approach and we have money in the budget. I think the committee of conference will take good note of what you are saying here. I know what your problem is but I don't think you are getting at it the right way. I have already tried to start those wheels in motion; I have the money in the budget for the people; the money in the budget for the cash register and things are going to happen with substations. But not just one for Rochester, how about a moving one that would take care of everybody.

Sen. BERGERON: I can appreciate that Senator and the people that you had the conversations with are the same

people that the delegations had the conversations with. I don't know how close the nearest substation to you is.

Sen. ROCK: We have one in Nashua.

Sen. BERGERON: Senator that makes all the difference in the world, we have none in the entire county and we are talking about 97,000 people and I don't think that it is going to be that expensive. We talk about and I don't want to be facetious, Berlin wayside recreation area. For crying out loud, that was the same area that was complaining about the substation. He obviously must have gotten the substation and now wants a wayside rest area and we can't have a substation.

Sen. ROCK: Your amendment was  $\frac{1}{2}$  a million dollars, mine was less than \$100,000.

Sen. BERGERON: My amendment Senator is not a  $\frac{1}{2}$  million dollars. My amendment was for a half of a half a million which I don't care to have. As I explained before that is the way that I was told to do it. But you know you have repairs to swimming pool complexes, wharves, all kinds of money for state parks, a garage for the department of safety so the trooper in Portsmouth instead of washing it for a dollar there he is going to drive to Concord and have it washed for nothing. We have all these important things.

Sen. ROCK: If you want that substation in Nashua . . .

Sen. BERGERON: A security gate fine, \$5,000.

Sen. ROCK: All these things came property before the committees. Your problem is a problem we are now aware of and I think there is a solution.

Sen. BERGERON: Do you understand my problem to the extent that the matter we are discussing was we were told that the matter would be resolved and it never has. We feel that we are not going to get a fair shake.

Sen. ROCK: I hear what you are saying and I don't necessarily disbelieve you but I can't 100% agree with you.

Sen. BERGERON: Senator if I went through this amendment and prepared another one dealing strictly with the substation for Strafford county would you go along with it, would you support the amendment?

Sen. ROCK: Yes.

Sen. SANBORN: Mr. President, just to say a couple of words here, partially in defense. Senator Bergeron is correct in a way relative to what I advised him. He asked me at the beginning of this morning's session relative to a substation in

Rochester area. I informed him at that time that there were two substations, one in Keene and one in Moultonboro in the budget. And he could look at those and he was on his own from thereon.

Amendment adopted.

Sen. Monier moved an amendment to HB 1191.

Sen. MONIER: The amendment that I am concerned with if you will turn to page 12 of the capital budget near the bottom of the page there is a section roman numeral 5, Merrimack Valley branch, \$3,494,000. This particular amendment does two things. The first is it strikes that from the budget and the second thing is if we pass it then allows the legislative budget assistant to correct any totals including the bond that might be authorized to reflect the effect of this amendment. I ask for the support of those few Senators that are left for this amendment for two reasons. The first is that I have argued from the beginning not on Merrimack Valley Branch but on the University System that in all cases where we have this higher education we are paying and following a course that for years has been the same which is that we are constantly expanding the brick and mortar. I don't know that we are getting too much more educational achievement from it and the educational projections for our area and our country shows that within twenty years there will be a diminishment of college educated people or those of that age bracket. That is number one but number two and the reason I asked the chairman if this was in the House Budget is not only do you have one but you have two that you are putting in. If you will look on page 5 under the Manchester voc-tech, you have classroom and laboratory additions of \$3,662,000 which has a footnote which says that if an area vocational school is built then this would not be built. So either way you are going to have an area vocational school or an addition to the voc-tech college. I have already indicated and I don't want to keep doing it, that in the area of Manchester, they are in competition with each other. This is one of the arguments that we had on another bill that we talked about earlier this week. I don't want to seem to be just looking after private colleges interests but I will be very frank with you, I am also looking after taxpayer's interests and I don't see any reason why we should have two major post-secondary facilities with



brick and mortar growth in the same area across the street from each other in which the two programs are not all of them, but some overlapping programs. As I said before when we were discussing another bill altogether this is nothing more than having public sector money competing with public sector money. It is bad enough that we have public sector money competing with private sector money. And my last argument is that in this particular region I have not made any comment for example, to the Keene or Plymouth growth. Simply because that is an area in which you do not have other private sector colleges that are providing possible space or voc-tech schools either I might add. In the particular case of Manchester you have five, two of which have expanded as the need has occurred rather remarkably, one or two of them, and two others which are not four year colleges but which are also in competition with some of the kinds of programs that are being offered. I refer back to the fact that I recognize we already have the roads in, I discussed it when we argued about the roads. I recognize that we have already started and bought the property and we argued about it when we bought the property. The point is, how long do we keep putting money into something that is obviously becoming or attempting to becoming a major university campus in an area in competition with private enterprise and now in some of its programs in competition with public sector tax-funded money. I ask that this be withdrawn and might well take care of Mr. Bergeron's problem.

Sen. BOSSIE: Senator I think it very interesting that you remarked that the University System is competing with some of the private colleges in the area. I know who you refer to. If the University of New Hampshire system in Manchester is considered a threat to these private colleges and I am a graduate as you know of one of the larger colleges in Manchester, St. Anselm's, why don't the Catholic colleges unify instead of competing against each other. Like Mt. St. Mary's, Notre Dame, and St. Anselm's and Rivier college, all have overlapping programs. They are all run and controlled by the diocese of Manchester and the only reason for their separate existence is that at one time, three didn't let males in and one didn't let females in. Now that has all gone by the board and they all let both sexes attend their colleges. I really can't agree with you and I would just like to know just how you can rationalize the limitation of the University

branch which has certainly been of great assistance to the city of Manchester, to many students from Nashua, Concord, many of the surrounding towns when if they wanted, they very easily could enroll at any one of these private colleges and I don't mean to exclude New Hampshire college, which is a fine college and that certainly has grown. It is private but apparently they have been in prime opposition to the allowing of the expansion of the University of New Hampshire branch in Manchester which hopefully one day will be a four year institution. I know there is a complex problem and I just wish you would comment on my statements.

Sen. MONIER: The first is why don't the other catholic colleges, why don't you just say any of the colleges cooperate or coordinate rather than have overlapping programs. For your information, in most cases they do. Obviously you can find courses that are the same in colleges because there are the basics. For example there are specialties that occur in most of these colleges. When St. Anselm's had a music department at one time it reduced it because Notre Dame became the major music course. They do work together under the New Hampshire Council of Colleges and Universities and it is my understanding that they do not oppose the kinds of things that go on in the Merrimack Valley Branch and the answer is quite simple. One is the director is a person who has to look after all of the interests and one is the interest of the University of New Hampshire who is part of the consortium. If they want to compete and if they do compete, and I really don't know of any major programs where they do compete per se, for example Rivier College has a law enforcement program and St. Anselm's college has a law enforcement program. However I teach three of the courses at Rivier college and it saves them on that because we already have it on our curriculum and they teach a couple of ours. So there is an intercoordination there. Any one of them can be exchanged. Beyond all of that if you want to talk about the education, I don't care if they don't compete, they are not doing it for the tax dollar. That is one big difference and it is a major difference. Now in addition to that you have within the capital budget, two buildings at two different colleges and they are both public and they compete with each other. So the same question should be asked of them. There is a significant difference. One is the private colleges pay taxes.

Hesser is a two year secretarial and a quite well known one I might add. 100% placement of their graduates every year. They have a program that is now in competition—we are subsidizing that through the establishment of programs at the voc-tech. Now that is competition between public and private. Now we also have programs at the Merrimack Valley Branch which are in competition to it. There was a small study that was made of non-major, non-specific programs of courses offered at Merrimack Valley Branch in 1975-76 academic year with respect to liberal arts courses. There was a 65 to a 68% overlap to courses already offered by the 5 colleges in the area. There was of those, half of those taught by university professors coming from Durham to teach as additional course hours to what they were teaching at Durham. Now some of these have established a pattern whereby now they were feeder systems. And I might add President Bonner, at the time they established this, indicated that this was a day's school, a night evening extension school and the first dean of it was an extension school. It is not, there is a creeping growth here into a full-fledge school, in a separate building and now not only competition with private enterprise but competition with public enterprise. I don't know how else to answer the whole question.

Sen. ROCK: Senator Bossie, have you ever had any competition with the other colleges around Manchester who oppose this Merrimack college?

Sen. BOSSIE: The only influence I have ever received was a little from St. Anselm's and a substantial amount from New Hampshire college. Now New Hampshire college is a nonsectarian college and it is oriented to business courses. Frankly the people in my district in which is situated this Merrimack Valley Branch, overwhelmingly favor it although a number of their kids go to St. Anselm's and other places. I think it is a fine thing that we should encourage the development of our University in the Merrimack Valley area. This is as it says, for the entire area and this will not do the things that I think the good Senator from Goffstown is worried about because this is not dormitories this is just another classroom building that we are referring to. So I don't see any problem, I think there is overwhelming support throughout our area and I would suggest throughout Senator Monier's area for this.

Sen. ROCK: I am very sorry to find myself on the oppo-



site side of the fence from Senator Monier on this issue and I must rise in strong opposition to his motion. I think I do so with some credentials. There have been those who would accuse me of speaking on the floor not knowing what I am talking about at times and they may be right but I don't think this is one of the times. First of all let me set the record straight on some very crucial issues facing the university system. Number one, the trustees have capped Durham. They said we are at a point where we cannot request in good conscience more bricks, mortar and buildings and expansion at Durham because the town just can't handle any more. Fact 2, we are rapidly approaching the point if we are not already there where we must say the same thing in Plymouth. I know Senator Smith's community has a great concern about the university expanding further in Plymouth, buying more land and putting up more buildings. We have just gone to the outer fringes if you will into Keene with the adoption of the plan to build a new liberal arts building in Keene. But I must ask the Senate to believe and to know because capital budget both in the House and the Senate will tell you that any of the plans for expansion at the university they have come forth with has been documented, well founded, planned and reasonable. Let me tell you what this legislature has said. Six years ago, the legislature said we will appropriate money to buy several hundred acres in Manchester after first rejecting a Bedford site to build a commuter campus, that is what the legislature said. They appropriated the money for the land and they also said we will appropriate the money for the utilities to put in the electricity, to put in the lights, put in the water, put in the roads, to erect a first building to get that campus started. Because the cost of living on campus is becoming so high and because it is a population center it is an area where students from Milford, from Bedford, from Nashua, from Derry, from Hudson, from Litchfield and even in some cases from Keene, to travel and attend the class and not have to pay the cost of dormitories and for their room and board and living expenses. There are no dormitories at the Merrimack Valley, they're none planned and at the moment it is a two year commuter college. Senator Monier referred to private colleges paying taxes. That is a new one. I am not sure of any of the private colleges that pay taxes to the communities that they are in. Most of the ones that I know of are tax exempt on their buildings. I also know that



the students at the Merrimack Valley Branch pay an average of \$300 to \$400 a year for their tuition. Of course we also know that their tuition at St. Anselm's is \$1800 or more and there is a big difference. A lot of the kids that pay \$400, and not all of them are kids, some are young adults who left high school, got jobs and are pursuing their livelihood by going nights to school to further their education as so many of you have done and as I did. But they are doing it on a meagre \$300 to \$400 dollars a year. They are not paying \$1800 a year tuition and as would be the case in Durham, another \$1300 to \$1400 a year for room and board. Now the first building was planned at the Merrimack valley campus and is now open. For those of you who haven't been there it is a credit to the state of New Hampshire, to this legislature that funded it and to the people who operate it. And I am speaking particularly of Dean Roger Bernard who is doing an excellent job. In the plan you said, the trustees didn't say, you said, you get the first building started, get it operational and after you have put the roads in and done all the site preparation, then you will go ahead with the second building. That is what you told the trustees you wanted to do and that is what we are proposing from capital budget in this plan. Now the fact that teachers come from Durham to teach has no bearing on this. They come and do get in many cases, overtime for teaching, but let me tell you it is a hell of a lot cheaper than hiring a full professor and giving him tenure. And remember that is a branch of the university. There is a bill now on the table that would establish the Merrimack Valley as a fourth branch of the university system. The competition that we are talking about here that Senator Monier referred to, the fact that Manchester is in for 3 million dollars for a vocational building is comparing apples and oranges. The kids that go to that voc tech college that were planned in this capital budget for 3 million dollars are not the same ones that go take the night courses and study and pick up their degree or their masters at the Merrimack Valley Branch. Nor is it the same as the area high school which is in the vocational technical high school plan. They are different sections of the budget, they are different people, different dollars, you can't compare the two. What you can do is say that an orderly progression of events is taking place, the legislative mandates are being followed, the things that you told the university to do to get ready for this has been done and this is a continuation be-

cause we can't take any more students at Durham, we are at the top and that is it. Keene and Plymouth are nearing or over 3,000 and those campuses are not designed for any more. This is affording the young person the chance to get a higher education, to be in the university system, to have his credits transferrable and I just think it makes an awful lot of sense and I hope you will support the original recommendations for the Merrimack Valley Branch and check the Monier amendment. It does not hold water.

Sen. JACOBSON: So that I am careful to have understood correctly what you said, you say that private colleges do not pay taxes?

Sen. ROCK: On their academic buildings. They do not pay taxes.

Sen. JACOBSON: Would you believe that the three colleges in my district pay over ½ million in taxes?

Sen. ROCK: On what Senator?

Sen. JACOBSON: On their buildings.

Sen. ROCK: On Auxiliary enterprises?

Sen. JACOBSON: Yes.

Sen. ROCK: That they make money on.

Sen. JACOBSON: You said there was a cap on the university at Plymouth and Keene, is that correct?

Sen. ROCK: My statement Senator was the cap at Durham is 1005, we are at it, there is a proposed cap that we are nearing at Keene and Plymouth of 3,000, those campuses, buildings and dormitories will not hold much more than what they are already at.

Sen. JACOBSON: At the present time, every demographic study indicates that we are decreasing in the number of children that will eventually reach college age, is that correct?

Sen. ROCK: I am so glad you brought that subject up. The board of trustees at the University has studied that one, inside and out. You are absolutely correct and to carry your logic even further and I know you are a very logical person, we should be at this venture and the gain if we were doing what other demographic studies would show around the United States, looking to decreases in the applications for enrollments to our institutions of higher learnings. That is what is happening around the country. Senator, not so New Hampshire. The immigrant factor in this state has turned us completely around 180% from what is happening in the rest of the country. We are still on the upswing as far as applications go

and all the studies that the board has been able to do shows that this will continue well into the 80's and the population in this state increases. We are one of the states that is in a population explosion rather than facing the problems that other states are with zero growth population. We don't see that problem and what we tried to do and I think acting responsibly for the people of the state as I said, we have to have a place where we can offer higher education and we have to have it at a price that we can afford it and that is what we are looking to at the Merrimack Valley Branch and the projections of the board of trustees are that the Merrimack Valley Branch sometime in the 1980's or early 1990's will be 10,000 students. And I might add that those are the students who are the very ones who would not be able to afford what are the increasing costs at Durham because those costs are just not within the reach of some students.

Sen. JACOBSON: If that be the case why is it that the State Board of Education figures do not show these fantastic increases in the student/pupil enrollment in the state?

Sen. ROCK: Well they sure do in my city. We are building a new school every two years in Nashua and I think Senator Lamontagne is having the same situation. New London I don't know but I know Nashua and I know Durham.

Sen. JACOBSON: Presuming that you are correct, is it also not possible—to correct the problem vis-a-vis out of state, in state?

Sen. ROCK: I don't think so and I'll tell you why. The out-of-state ration at Keene and Plymouth is a little higher than it is at Durham. On this date, I will state unqualifiedly to the Senate that no qualified New Hampshire student who has made a timely application to the university system, has been denied application and I would like to underscore that as recently as this morning, I had a telephone call from a constituent who's student son was enrolled at Merrimack college in Andover and for a reason involving an automobile accident beyond their control, he will not be able to attend Merrimack. Had he made application, had he made a timely application, he was in the upper  $\frac{1}{4}$  of his class, good student, he would have been admitted to Durham. He is not applying today, he is applying June 14th and that is going to be a problem because a late application can cause problems. We just don't have the dormitory space, the rooms have been allocated. But every New Hampshire student who made timely

application has been admitted to the University system, he was qualified to go to college. He is either at Durham, Plymouth, Keene or the Merrimack Valley Branch. No qualified New Hampshire student has been denied application and I challenge anyone to produce a name of any student who had the qualifications and who made the application that has been denied. Whether or not he has the money, that is another story, we are still trying to find money for some students and you helped yesterday with your passage of the student aid.

Sen. JACOBSON: I am not sure because I haven't read the article but and I am sure that you have read it as a trustee of the college, but there was an article in the New Hampshire News that said something about 90% of all applications are accepted; does that mean that 10% are rejected for let's say, academic reasons?

Sen. ROCK: Some of the reasons for rejection might be academic standing, late applications, residency problems, somebody who says I live at Hampton and got a summer home there the last two months of the year but my real home is Haverhill.

Sen. JACOBSON: Recognizing that all of the private colleges in New Hampshire, as well as the state colleges, have a very large capital investment factor, and recognizing that it is not alone the capital investment factor but it is the operational factor of that investment factor that is the key to the situation rather than the capital investment factor, would it not be better to give more money for students to go to school at home among all of the private colleges which already have an existing capital investment factor which we do not have to pay for until such time as they need to place a cap? I don't know of any school that needs needs to place a cap at the moment except conceivably Dartmouth college which admits a very tiny minority of New Hampshire applicants. It is really a national college.

Sen. ROCK: Well certainly Senator I wouldn't want to compare the university in its high academic standings with any of the private colleges but I do know that we are still in the throes of an upward swing in applications and because of that we have had to place a cap. Now there may be areas where we are more attractive for certain reasons, the courses and so forth, I don't know, that students want to come there. I harken back to your recommendation that you introduced



in the form of a bill that you wanted to I guess, sell the university off? I don't think that is the route we should be going and I think you ought to also remember and I think this was part of the thrust of your bill, that on a basis of state support in this state versus other states, as far as Durham and Keene is concerned, we rank very low and here we are saying that those students who may have problems with a \$1,000 tuition can get the same education and have the same high quality standards. Right now we are renting high school classrooms all over the city of Manchester because we can't take care of the students at night. We just can't handle them.

Sen. JACOBSON: Were you suggesting that the quality of education was lower in the private colleges?

Sen. ROCK: I prefaced my answer by saying I didn't want to infer that.

Sen. JACOBSON: Would you believe that the records show that Colby-Sawyer graduates get higher grades at UNH than they do at Colby-Sawyer because they think it is a little easier to succeed down there?

Sen. ROCK: Well I have never accused Colby-Sawyer of great inflation.

Sen. BRADLEY: Senator Rock I accept just about everything you say and I appreciate the analysis except for the inference that private colleges aren't paying real estate taxes. Would you believe Senator that Dartmouth college in Hanover is the largest taxpayer by quite a margin, paying taxes on all its dormitories, on such things as land held for future expansion, nearby the campus, the president's house, the steam plant to extend its services and on and on?

Sen. ROCK: These are all auxiliary enterprises on which you are either realizing a profit, it is just like at Durham. The students at Durham pay the full cost of the dormitory, the dining halls, the amortization of everything including the parking lots around them, yet they won't let the students park there because they say we are going to reserve those for the faculty.

Sen. SANBORN: Senator Rock, I have been interested in this entire debate but isn't there a little age differential between Merrimack Valley and say Durham.

Sen. ROCK: There are students who will be in that category of making late application. They didn't apply to Durham in time. Maybe they thought they were going to get in some place else. Maybe they made application to Dartmouth and

were rejected as most New Hampshire students are. They would be going to Merrimack Valley Branch, getting credits as a freshman that they could apply in January or next September when they started up on a full time basis in Durham but there are a great number of people at the Merrimack valley branch who are either already married or already employed, who are on their working careers, who may have already had a bachelor degree or are working towards a master's degree. There are housewives, career women, there are professional people and there are grandmothers. Grandmothers who are taking courses—in fact, it is a wonderful delight to see a grandmother get her degree after I don't know how many years of study, and she got it at the Merrimack Valley Branch.

Sen. SANBORN: In other words Senator you are telling me that basically most of the people at the Merrimack Valley Branch are people that have graduated from somewhere, high school or some other level and are now trying, even while they are working, advance their education in other fields?

Sen. ROCK: I would guess at least half.

Sen. SANBORN: And would you anticipate, let's say, someone who had graduated from the voc-tech college in Manchester, an auto mechanic we'll say, and become really interested in his trade and wanted to expand and go into the supervising force, might be going to Merrimack Valley to advance his knowledge in that area?

Sen. ROCK: Yes Senator, absolutely.

Sen. MONIER: All through your discourse Senator Rock and I am sorry that we are on the opposite sides too, but I keep noticing that you make reference to St. Anselm's. You do realize that there are four other colleges and two others besides that?

Sen. ROCK: Yes Senator, and about six years ago when I was also on the board of trustees, we had several meetings and I believe it is President Branden, there were meetings between the administration of the University and some at my urging, so that we could see what these problems were. I have to say very candidly and subject to your check Senator, that since Dean Bernard has been on board the situation has been resolved, it is an amicable one, we are not getting the kinds of danger signals that we were getting six, eight years ago when there was more concern about what direction the

Merrimack Valley Branch was going to go in. Those things have subsided Senator, they are just not there anymore.

Sen. MONIER: That wasn't my question, I asked if you recognized that there were some other colleges besides St. Anselm's?

Sen. ROCK: My first answer was yes and then I went on to explain.

Sen. MONIER: Then from your own admission you will admit my argument is not a metter of St. Anselm's argument?

Sen. ROCK: No Senator it was just that you keep standing there and keep reminding me of St. Anselm's.

Sen. MONIER: No I keep reminding you that there are other colleges besides St. Anselm's. Let me ask you this, what is the registration fee for a 3-hour course at Merrimack college?

Sen. ROCK: It is \$35 or \$40 a credit.

Sen. MONIER: Would you believe that at New Hampshire college it is \$50; at Notre Dame it is \$45; at St. Anselm's it is \$50 and I haven't got a true figure on Hesser but I think it is \$35?

Sen. ROCK: Would you be happy Senator if ours was higher than yours?

Sen. MONIER: No. I would just like to point out if I may as a question, when you talk about the cost of taking the courses that the cost of taking similar courses on a one-course or two-course basis, you need for matriculation, is about equal.

Sen. ROCK: My reference to the differentiation is in the \$1800 tuition.

Sen. MONIER: Senator Jacobson reminded you of what the colleges in his district pay in taxes. Are we now all aware that private colleges do pay taxes on their buildings?

Sen. ROCK: Not on their academic and administrative buildings.

Sen. MONIER: Would you like to put it on the table until we check the tax records at Goffstown which is on academic buildings and land. The only thing that is not taxed is the monastery itself. New Hampshire college pays it on academic buildings and land.

Sen. HEALY: I rise in opposition to this amendment. I perhaps have quite a bit of different thinking on some of the information that has been discussed here today. For one thing it is the first time I have heard the word competition

used among the colleges in the educational system. I would like to point out a few things. Number one, Manchester that is greater Manchester, is quite an industrial complex. Number two, it is gradually becoming the educational center of the state and when I saw that I point to many schools in the greater Manchester area. Hesser college, Mt. St. Mary College, Notre Dame, St. Anselm's, New Hampshire college and even Rivier is not far away among others. To go back to the beginning, New Hampshire extended quite a bit of money in buying and purchasing land and helping to develop the area which runs up into Dunbarton from Manchester. Furthermore, the city of Manchester expended a tremendous amount of money in placing water and sewerage systems up to the school in collaboration with the state of New Hampshire. A third thing that has not been brought out is the fact that the great majority attending this college, this new school that we have there which is quite a beautiful spot, is the veterans. The people who are working by days are adults as Senator Rock pointed out. These people receive government aid as tuition for attending Merrimack college. If you ask me I think it is quite an asset. I know a number of people that even work with me that are attending this school nights. With people working in factories and wanting to get an education I think it is a very nice thing. It is a very unique situation where we have a city that is mostly industrial where it is gradually turning towards an educational city and I think that is very commendable.

Sen. JACOBSON: Senator I listened with appreciation to your speech. You will recall that Senator Rock in his speech or in response to questions said that ultimately this college may rise to the 10,000 figure as well. You know how many millions it costs to operate the University of New Hampshire in order to keep the tuition rate down. My question is that if you vote against this amendment will you also vote the money in terms of tax revenue to support this institution of 10,000 persons.

Sen. HEALY: Thank you Senator for that question. Once again I will support money but not necessarily through the systems advocated by this Senate and by the House particularly.

Sen. Blaisdell moved the previous question.  
Adopted.



Amendment failed.

Sen. Bergeron moved an amendment to HB 1191.

### Amendment to HB 1191

Amend paragraph X of section 1 of the bill by striking out same and inserting in place thereof the following:

#### X. Department of Safety

A. Garage facility—Construction and equipment	260,000
B. Two safety sub-stations and state police barracks in the areas of Keene and Moultonborough	520,000
C. One safety sub-station in Rochester	35,000

Total paragraph X	815,000*
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\*To be amortized with highway funds.

Sen. BERGERON: Mr. President, you have the amendment and it simply adds section c, one safety sub-station in Rochester with an appropriation of \$35,000. This takes in all of the machinery and equipment, employees, the whole bit.

Amendment adopted. Ordered to third reading.

HB 390, relative to the selection of delegates to national presidential nominating conventions. Split report: Majority—Ought to pass. Sen. Monier. Minority—Inexpedient to legislate. Sen. Jacobson.

Sen. MONIER: Mr. President this is the bill where we had a senate bill similar to this before the Senate. It had several votes, was recommitted to committee and at that particular time we were aware that there was a HB 390 that was similar to it. Senator Sanborn and I were the co-sponsors of the bill, agreed to vacate it to the elections committee and we kept our differences as we went down the line. That is why you have a majority and a minority report. Quite frankly this is a controversial bill with respect to relative selection of delegates to the National Presidential Nomination convention. We have discussed it many times before on the floor, the

names of the delegates and alternates will not appear on the ballot, that is a key factor in this. The second portion of it that is important is that as we now have to have a letter from the candidate in order to become a pledged delegate, you would now have the same kind of a system through the secretary of state stating who are his delegates. These would be published, put forth so that the public would know who they were. But the key factor is that you would provide only for a vote of the candidates. That is the main factor. The second major condition of the bill which is different from current time is that the presidential candidates would receive delegates in proportion to their vote so that a presidential candidate for example who would have with him, would receive a proportional selection of delegates and alternates to represent them of each of the political party who were numerically superior in the particular primary involved. A presidential candidate would have to receive at least 10% of the total vote in his political party to be eligible for any percentage of the apportioned delegates. The number of delegates and alternates any presidential candidate receives will be determined by the proportionate number of votes cast for each candidate whose name was on the ballot. So the total cast for all presidential candidates in the same political party. So for example, and you can get into all kinds of mathematical games with this and I am not going to try to figure them because I don't have a computer with me, but the truth of the matter is that if you had four candidates running and there were 20 delegates at stake and each of them got 25% of the vote they each then would wind up with five delegates. This is the simplest way to do it. The secretary of state would notify all of the successful delegates of alternates and the movement of the delegates to the alternates to the presidential convention itself would be on the basis of their voting and their percentage of the vote in the state. So there are three significant changes proposed here. The last one that I spoke of last and I'll bring it up first, is that you would have a proportionate share of the delegates directly responsible for the amount of votes that you received in the primaries. That is in ratio to the total amounts received in that party. The second would be that the delegates and the alternate delegates names would be filed with the secretary of state under the approval of the candidate just as they are now for presidential delegates but would not be on the ballot. The third would be that

there would be no, and I have to say that would leave favorable candidates or unpledged delegates on the calendar. I think that sums up pretty well what the bill does.

Sen. HANCOCK: Senator Monier is it true that if the members of candidates and delegates thereto grow much bigger much longer that there is some possibility that the secretary of state is going to encounter serious logistical and cost problems in putting together a ballot?

Sen. MONIER: In response to that Senator Hancock, that is true. He said I think that there had been ten more delegates he wouldn't have been able to get them on the ballot. Most of the committee was in the majority felt that having all the names on the ballot is not necessarily conducive to good elections in the sense that it is pretty well established by research and by knowledge of all of us that have been in politics, that you do not get them searching carefully through each one to pick out the person that fits but rather they usually pick up anywhere in the first five out of 10, that is one way to do it. The second way is for a familiar name, which is called name recognition and the third one is for ethnic names and the last one is by keypunching, which means wherever they have to put the mark. Having the candidates on the ballot is a nice ego thing for the candidates and has very little to do with selection.

Sen. JACOBSON: Mr. President what this bill essentially does is to eliminate the right of citizens of New Hampshire to run as delegates to the national conventions of political parties. That is what this bill does. I recognize that when we have these votes every four years it is a relatively complex matter although it has been greatly cleaned up by the form of the ballot in the last election, if you compare the form of the last election to the form in 1972 and earlier ones, you can see that a significant step has been made in bunching the candidates of a particular, the delegates favorable or committed to a particular candidate for president are put together which made it considerably easier. I have not found any real significance in terms of any reform with respect to election that this bill does. Instead it takes away what is I believe, a basic liberty that we established with regards to our primary system. There are states that use various systems there is a convention system, there is a unit delegation system, there is the winner take all system, there may be another state that uses this proportional system I am not sure. I think our sys-

tem is a good system despite some problems we have in counting and voting. But after all democracy is fundamentally inefficient. If you want to go the other extreme you can have a dictator and have him make all the decisions. You don't have to make any kind of decision. So I still believe that the people of New Hampshire in the various parties ought to have that opportunity. Furthermore I think it is important to bear in mind that a person could win the plurality of the vote here in New Hampshire and yet have no control of the delegation. For example, in the case of Jimmy Carter I think he won 30 odd percent of the vote which means that in this formula as proposed in 390, he would only get 30% of the delegates. In other words, 70% of the delegates would be for candidates other than the person who would have won with the greatest number of votes. I think this is the problem. You could have 8 or 9 candidates, each getting 10% whereas one other person got 45%, or whatever comes to 100% and yet have no control whatsoever over that delegation. So even in the candidates interest I don't believe that this bill is a good bill.

Sen. TROWBRIDGE: Hasn't it always been true in New Hampshire that we still believe that a man is known by his friends and his associates and that people like to know whom is backing whom?

Sen. JACOBSON: Yes I believe so. I believe that that contributes to the openness of the situation.

Sen. TROWBRIDGE: Do you think that the national press would pay much attention to the results of a New Hampshire primary if the results come in with the results all scattered with everybody getting little bits and pieces? Do you not think that that would take away from the impact of the New Hampshire primaries?

Sen. JACOBSON: It certainly could and I never thought about that idea until your question came along. There is a sublevel of interest in terms of the news media in the relationship of candidates to vote in terms of the delegates. So that heightens the interest rather than lower the interest if we maintain our system.

Sen. TROWBRIDGE: So if we took this bill which is the loser bill, we would be losing some of the drama of the New Hampshire primaries?

Sen. JACOBSON: I believe you are correct Senator.

Sen. BOSSIE: Thank you Mr. President and members of



the senate. I rise in support and in favor of the Jacobson amendment. That this bill be indefinitely postponed. As the good senator from Dublin has said this is the loser bill. This is a loser's bill. This is a sour grapes bill. As we know during the last election, 1976, on both sides of the ticket, there was heated interest in our primary. On the republican side we had an incumbent president being opposed by an ultraconservative from California. This was quite a vicious campaign in New Hampshire, it was very good from our point of view. At the same time in the democratic primary in New Hampshire I think we had 17 candidates and well over 200 names on the ballot of people who ran as delegates or alternate delegates. As we saw in the turnout, the Ford people won and so did the Carter people. In fact in the first district in the democratic primary, all of the Carter people won and we only lost one in the second district. As a result of this the ultra liberal wing of the democratic party lost and they came up with this bill in behalf of Udhall and Birch Bayh to provide that they would get the proper representation so that they would have had as many delegates to the convention as we did. Now just think of this, we had 17 delegates and not to bore you, are republicans and I'll get to you in a minute. We had on our side 17 candidates including Chief Running Wood and everybody else who probably would have ended up at least with a delegate. You know what they would have done if this had been proportional? In the first district, Carter instead of getting an 89 would have gotten 4 delegates. Frankly I was one of them and I came in first in the first district. It wouldn't have affected me either way. Senator Fennelly did come in third. The fact remains that they would have been elected so all the anti-Carter people would have been down there in New York city, guess who they would have elected as chairman of the delegation? Not one of the Carter people. They would have elected one of Chief Running Wood's delegates to embarrass the democrats. Let me get now to the republicans. Certainly most of the Ford people were elected and the also-rans also had a few delegates. A few of our Senators were candidates for delegates and perhaps they should have won. The fact is Senator Smith, you were also one of the ones who was lucky and you did win. The fact remains the candidate and his supporters who get out and hustles is going to get the vote and we know that. And even though this is some sort of party

reform of both parties, I don't see it, at least from our perspective it is the radical liberals and the ultra conservatives that are pushing this bill. One of the things that I strongly oppose in this bill is the taking away of the names of the delegates and alternate delegates on the ballot. A number of years ago, I believe four years ago, I had a bill to reform the ballot and to put everybody's name under the candidate to which they were pledged or favorable to. At that time I appeared before a house hearing and somebody said would you favor taking all the names off and I thought to myself at that time, well this might be progress but then in real consideration of the fact I said no, definitely not. Because this is part of the whole system. This is why as you heard from Senator Trowbridge you can tell a man by his friends. And if you get some of these cuckoo birds running like Chief Running Wood, and certainly they will get out to the convention, no matter whether it is republican or democrat and raise hell for things that certainly the majority of the people of New Hampshire will not favor. Frankly if we were to adopt this bill we would make sure that only big name people are delegates to the national conventions because in a proportional manner, even if I were again to run for Jimmy Carter for president, it would be proportional. You could get Chief Running Wood, he was bound to get at least 20% of the vote, just in a two man contest. In any contest because there is always going to be a sufficient number of people who would not favor the incumbent or the person is the chief designee. This would not be a good system. What we are going to do like all these other states like California and Texas, we are going to have the big shots, the governors, we are going to have the U.S. Senators, the congressmen calling all the shots, getting all their pusses on television for all the people back home to see. Mr. President this bill is going to take away whatever we have left of Americana and our New Hampshire presidential primary. We have got something good here. We have a wonderful primary, in fact everybody in the country is looking at us on the first election day every fourth year and in fact the other New England states at this time are trying to horn in and try to have their presidential primary on the same day as we are. We have got a good thing going, why are all the people standing about. Keep all of the big shots off of it and let us vote for the Jacobson report.

Sen. FENNELLY: Thank you Mr. President, I rise in support of the present motion of indefinite postponement. The only reason I finished third in the first district is because Senator Bossie of Manchester was next to me. At the convention, what Senator Bossie says is completely true. The New Hampshire delegation, when this came before the democratic national committee on the floor, Madison Square garden and Bob was there and so was I, the New Hampshire delegation to the man, voted against this intrusion of apportionment. One person voted in favor of it so now the national committee wants it, the national committee in the state of New Hampshire wants it. I don't care what they want. What would have happened as Senator Bossie says, actually conservative or liberal, that is who it is meant for. Under this present bill, Mr. Reagan who only lost to Mr. Ford by 1100 votes, would have ended up with 9 or 10 delegates and Mr. Ford would have ended up with about 11. I think it is a bad bill, there is a question that the New Hampshire democrats might be challenged by the national committee, so what, let us challenge us. I urge the support of Senator Jacobson's motion.

Sen. Jacobson moved that HB 390 be indefinitely postponed.

Sen. Lamontagne moved the previous question.

Adopted.

Sen. Bossie requested a roll call. Seconded by Sen. Monier.

The following Senators voted yea: Smith, Bradley, Jacobson, Trowbridge, Keeney, Brown, Bossie, Fennelly.

The following Senators voted nay: Lamontagne, Poulsen, Gardner, Saggiotes, Monier, Blaisdell, Rock, McLaughlin, Hancock, Healy, Sanborn, Provost, Downing.

8 yeas 13 nays

Motion of indefinite postponement failed.

Question of ought to pass.

Adopted. Ordered to third reading.

(Sen. Bossie, Fennelly recorded in opposition.)

HB 167, relative to legal voters changing party affiliations and the posting of checklists. Ought to pass with amendment. Sen. Jacobson for the committee.

Sen. JACOBSON: Mr. President, this is a bill that everybody can agree with. It has a very simple amendment on it. The original bill was a bill that was SB 166 that was actually defeated here in the Senate. The testimony was overwhelmingly, overwhelmingly, I must say it again, to open voting to everybody, republicans, democrats, independents, communists, socialists, everybody. Even neo-fascists, neo-nazis. That was the testimony. That we have to open up our voting process. What this bill does is exactly that. It opens up the voting process so that every person can vote in every election and does not have to be constrained or restrained or restricted in any way, shape or manner. I don't know how we can go any further in election reform than to go this route. It will open up the election process to every individual. It is not the kind of bill in which we pay political gains. It makes everybody on the same level. It gives everybody an opportunity to be involved in the political process. You know the league of women voters have said let's get everybody involved in it the political process. This bill does that. So there are no barriers for going out and voting for the candidate of their choice. I am sorry that Senator Foley is not here today because she made part of the speech which I was going to make in which she said in fact I would like to see people at one time go in and vote for Governor Reagan and at one time for Senator Kennedy as they wished. This bill allows them to do that. It is a bill in which everybody can share in the election process, without restriction, without restraint. Therefore it ought to be unanimously adopted by the Senate today.

Sen. BOSSIE: Senator if I wanted to be a renaissance thinker on this would I vote to support your bill?

Sen. JACOBSON: You should absolutely because it comes right out of the renaissance and the love of learning and the love of life.

Sen. BRADLEY: Senator Jacobson, I am getting to know you better as the years go by and I think I am getting to know when you are being facetious because you have a different tone in your voice and you have a different smile between sentences. I just noticed in this particular speech now.



Am I wrong in my observation that perhaps you are being facetious?

Sen. JACOBSON: Senator one of the problems that you and I have discuss is that lawyers have a tendency to get into technical aspects of it and never see the beauty of the broader perspectives and I am 100% for this bill. You see you have misjudged facetiousness for enthusiasm and I am enthusiastic to the ninth degree on this bill.

Sen. MONIER: Senator in all of our hearings on this bill have you and I not discussed and heard from any people of all of the parties both liberal and conservative philosophies, what we must do is make certain that everyone can get to the polls on time to register on the basis if we wait until it is 90 days before they don't know who the candidates are, they don't know what his issues are and therefore they don't have a chance to vote for him. Is that not correct?

Sen. JACOBSON: That was the principal burden saying that we can't get in and vote for people we want to vote for and what this bill says is yes you can, and in fact if you have been sleeping until the day of the primary you can get in and vote.

Sen. MONIER: Have we not also been deluged with the idea that we should have registration forms mailed, that we should have postcard registrations, that we should have it easy for absentee ballots, that people shouldn't be argued with by the supervisor of the checklist whether they are a resident of a particular town or not, all these matters would be resolved if we had this kind of an open primary, am I not correct?

Sen. JACOBSON: The question of registration is a separate question but once you got registered you could come and vote and this is an open primary in the full sense of the word. No hocus-pocus, right out there in the open.

Sen. MONIER: Then all of the details and the technical aspects that we have heard so much testimony about by so many different philosophies and shadows of people and parties with respect that this has always restricted us, that this has stopped us from being there in time etc and so forth would no longer be that we have technical capabilities because once you have registered you can vote for anybody that is on that ballot?

Sen. JACOBSON: Absolutely and this bill really is, like the Nashua Telegram said, 14 of us are in the Neanderthal

classification and ten of us are in some other kind of classification and forgot what it was. All of us supported this because everybody will be on a par.

Sen. MONIER: And like the Portsmouth Herald says if we want this kind of voter and I am president of the pachyderms then we ought to vote for it.

Sen. JACOBSON: Yes. Anyone who wants the voter to have the fullest liberty must vote for this bill.

Sen. MONIER: I was going to rise in support of the motion on the floor. I now have to rise with all due respect to our dean of the Senate in opposition to his motion. Senator Sanborn and I were unfortunate enough to be placed upon the elections committee two years ago and have to listen to the constant barrage of about three major things. The first was that people were actually restricted from registration because of all of the rules, the way in which the supervisor of the checklist opened up their houses or didn't open up their houses. We have had bills in by the hundreds in the last two years, make all kinds of corrections. Most all of it for and upon the fact the Wyman-Durkin close vote so if nothing more they will go down in history for having resolved all of the political problems of voting. Last but not least the second aspect was that we had too many restrictions and did not give freedom of choice in terms of the candidate. In short if you were committed before you found out what the candidate was for you couldn't change your party affiliation, the independents couldn't vote in the primary. I can remember over the last six years and I wish you would just follow me on one thing. I can remember up to 6 or 8 years ago with an independent could not vote in a primary without declaring a party. That then went to he could declare a party and then it went over the next six years it went back to after he declared a party, he could then later but it had to be 90 days later, we have always had that restriction on it, he could then go back and declare himself an independent or to another party. Now this is a kind of trivia and the kind of things that supposedly people have been saying for years has suppressed the rights of people in selecting candidates. Now this bill, as Senator Jacobson and I have mentioned in committee, ceases and desists all of that. Everybody that runs is on the ballot. Anybody that is a registered voter, I still feel that you have certain restrictions for registration, such as which town you reside in etc. and so forth and you should have in order to

control fraud. Anyone can walk in on a primary day and vote for anybody on the ballot. They do not have to declare a candidacy, they do not have to declare a party. They don't have to switch back and forth and they don't have to worry about whether they are an independent one time and they want to vote for a democrat, etc. and so forth. Now to be honest with you I will do it from a very specific kind of form. If you are not hypocrits, vote for the bill. If you don't want to vote for the bill then stop going out and telling me who has to listen to them, and other people what Common Cause wants, how we don't allow people to vote for a candidate, how they need time right up to the election day in order to make their decisions in which the candidate is, they ask whether that is on charisma or the issue. It doesn't make any difference. Vote for an open primary, you don't have the problems then. Any one that is on that ballot, you can then vote for.

Sen. ROCK: Senator are you for this bill?

Sen. MONIER: I am. And I intend to support it.

Sen. BRADLEY: I rise in support of Senator Lamontagne's motion. Lawyers indeed may have trouble looking at the world sometimes. I would be the first to admit that. There are others who have a problem also if they are proposing a bill such as this for the reasons which they say. I think their problem is something like this: that they are unable to restrain themselves from pursuing any good principle which is logical. I think that is simply what they have done here and they have forgotten what I think was a great renaissance principle that is the principle of moderation and the golden mean, I think that comes before the renaissance. There are many sound ideas around which if pursued far enough to the extreme become absurd. The idea of liberalizing something does not mean that you have to go to extremes of absurdity as has been done with this proposed amendment.

Sen. JACOBSON: Could you detail the extremes that this bill went to?

Sen. BRADLEY: I think you have already done that Senator.

Sen. GARDNER: I don't quite understand this bill, it is so absurd. Wouldn't this destroy the two party system that we have?

Sen. BRADLEY: I think that is the point, yes indeed.

Sen. HANCOCK: Senator Jacobson is playing games with

us and I want you to vote down the amendment so we can get onto the bill.

Sen. MONIER: Senator Hancock I think about two weeks ago, we were discussing a bill in here about registration and we were talking about the changing of party affiliations at the present time on that law was 90 days prior to the election. Was I incorrect or did I hear you incorrectly in which your arguments were for changing it to 30 days or 10 days before was the simple fact that you would be able to better know the candidates at that time than you would to register for the party 90 days before when you didn't even know who was running?

Sen. HANCOCK: Senator Foley and I sponsored SB 166. We did aspire to that philosophy. We do, however, believe in a two-party system.

Sen. MONIER: My question was your arguments that day for changing the date of registration from 90 to 30 or 10 or whatever it was was on the basis that you would not know the candidates if 90 days and therefore we should make it at least 10 days and I think we adopted 30 if I am not mistaken, 20 excuse me. The basic argument for that from both Senator Foley and yourself was that you would not know the candidates at those earlier dates. Is it not true that with this bill you would know the candidates right up to the time of election and could vote for either one?

Sen. HANCOCK: I am sure you would know the candidates but as I said, we are still in favor of the two party system and this bill is I think is a farce.

Sen. MONIER: You do recognize that on the ballot both parties would be on there. Wouldn't you feel that we have left it open to the two party system by which democrats could vote for the person designated democrat and republicans could vote for the persons designated republicans?

Sen. HANCOCK: I don't think this is an honest amendment.

Sen. ROCK: Senator Hancock would you believe that up to a few minutes ago when I had to ask Senator Monier how he was going to vote on this when I was listening to Senator Jacobson, I really wasn't sure in my own mind how I would vote on the amendment? Now that I have heard that you are against the amendment I have made up my mind I am for it.

Sen. HANCOCK: Thank you sir.

Sen. LAMONTAGNE: Mr. President, member of the Sen-



nate, seeing that my motion is not in order again at this time I rise in opposition to the amendment and hoping that the amendment will be killed and hoping that the whole bill will be killed. Personally I believe that the two-party system has worked for a long, long time and I don't see anything wrong with it. I am against the bill.

Sen. TROWBRIDGE: I frankly don't know why Senator Bradley and Senator Hancock see so much threat in this bill. My feeling is very clear that as a moderator I have seen a great many people come in to my district and say, oh, I meant to change my registration, oh I wanted to go into that primary and I can't. I have always thought that was self-imposed by our own rules and is silly in this modern day and age of people really voting not so much by party, let's face it, but by candidate. For us to sit here and not recognize that change in our own voting structure, I think that would be wrong. Now I must say I haven't studied the bill, I am counting on my good renaissance friend to make sure that there isn't any hocus pocus in the thing but the basic idea is you let everybody vote in the primary and it becomes meaningful again. And I will support the bill and the amendment.

Sen. JACOBSON: Mr. President I want to respond to the statements that were made by Senator Hancock that in fact I am dishonest. I am not dishonest. In fact I am openly honest about this in which I believe if we are going to go we should go the entire distance and open it up for everybody. What SB 166 did was exactly the same thing except it is backdooring. It says, yes, everybody can change their party registration and vote sooner. All I am saying is that they can do it on day one. Rather than wait even for 20 days. That is the game that is being played and I think we ought to be honest and say that we are for primary openness or not. The real gamesmanship is in the bill that allowed 20 days. We are trying to be restrictive as long as it is not a special interest. The other point I want to make is that this preserves the two-party system. There is nothing against the two-party system in there. Democrats and republicans are in there.

Sen. Saggiotes moved the previous question.  
Adopted.

## Amendment to HB 167

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT  
establishing a unified primary.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Form for Declaration of Candidacy. Amend RSA 56:12 as amended by striking out said section and inserting in place thereof the following:

56:12 —Form. Declarations of candidacy shall be in the following form:

I, ..... declare that I reside in Ward ....., in the city (or town or unincorporated place) of ....., county of ....., State of New Hampshire, and am a qualified voter therein; that I am a registered member of the ..... party or am unaffiliated; that I am a candidate for nomination for the office of ....., (or for delegate to the state convention) to be made at the primary election to be held on the ..... day of .....; and I hereby request that my name be printed on the official primary ballot as a candidate for such nomination or election. I further declare that if nominated as a candidate for said office or if elected as such delegate I will not withdraw, and that if elected I will qualify and assume the duties of said office.

2 Last Day Filing. Amend RSA 56:13-a as inserted by 1957, 61:1 by striking out said section and inserting in place thereof the following:

56:13-a —Personal Filing. On the last day of filing all declarations of candidacy required to be filed with the secretary of state shall be filed in person by the candidate.

3 Filing Petitions. Amend RSA 56:15 by striking out said section and inserting in place thereof the following:

56:15 Primary Petitions. The name of any person shall be printed upon the primary ballot, without the filing of a declaration or the payment of a fee, as a candidate for nomination for any office indicated in the requisite number of primary petitions, as hereinafter provided, made in the following form and filed in place of such declaration, together with the writ-

ten assent of such person to the printing of his name on said ballot as requested in said petitions:

### STATE OF NEW HAMPSHIRE

County of ....., ss.

City (Town) of .....

I do hereby join in a petition for the publication on the primary ballot of the name of ..... whose residence is in the city (town) of ..... (ward, street and number, if in a city), in the county of ....., for the office of ..... to be voted for on Tuesday, the ..... day of September, 19....., and I certify that I am qualified to vote for a candidate for said office and am not at this time a signer of any other similar petition for any other candidate for the above office; that my residence is in the city (town) of ..... (ward, street and number, if in a city), in the county of ..... and that my occupation is ..... I further certify that I believe the above-named person is especially qualified to fill said office.

(Signed).....

State of New Hampshire

County of ....., ss

City (town) of ..... 19 .....

The above-named ....., personally known to me, appeared and made oath that the above petition, by him subscribed, is true.

Before me,

.....  
Justice of the Peace or Notary Public

4 Form for Declaration of Party Membership. Amend the form in RSA 56:16 by striking out said form and inserting in place thereof the following:

### STATE OF NEW HAMPSHIRE

I, ..... of ..... in the county of ..... do hereby assent to the printing of my name on the primary ballot as requested in the attached petition. I further declare that I am a registered member of the ..... party or am unaffiliated.

(Signed) .....

State of New Hampshire

County of .....

The above-named ..... personally known to me, appeared and made oath that the above declaration by him subscribed is true.

Before me,

.....  
Justice of the Peace or Notary Public

5 Ballot Form. Amend RSA 56:17 by striking out said section and inserting in place thereof the following:

56:17 Placing Name on Ballot. The name of a candidate shall be printed upon the official ballot used at any primary in one column. In the next column shall be printed the office for which he is a candidate. In the third column shall be printed the political party to which he belongs or the designation "unaffiliated." Then there shall be a column in which the voter shall indicate his choice at the election.

6 Conflicting Petitions. Amend RSA 56:21 by striking out said section and inserting in place thereof the following:

56:21 Limitation on Signing Petitions. No voter shall sign more than one primary petition for the same office unless more than one nomination is to be made; in which case he may sign as many primary petitions as there are nominations to be made for the same office. In case a voter has signed an excessive number of primary petitions all such petitions shall be rejected.

7 Straw Candidates. Amend RSA 56:28 by striking out in line 7 the words "of that party" so that said section as amended shall read as follows:

56:28 Straw Candidates. Any candidate for nomination whose name is to be voted upon at a primary election, may within 3 days after the last day for filing declarations of candidacy and primary petitions file a petition with the ballot-law commission alleging that one or more candidates for the same nomination are obviously not bona fide candidates, having filed as straw candidates. The commission, after hearing with due notice thereof in writing to all candidates for the same nomination, shall have the power and duty to order stricken forthwith from the primary ballot the name or names of any candidate or candidates for said nomination if the commission finds that such candidate or candidates are obviously not bona fide candidates, obviously having filed not primarily for the purpose of seeking the nomination but primarily for the purpose of drawing votes which might



otherwise be cast for some other candidate for the same nomination. The decision of the commission shall be final as to questions both of law and fact, and no court shall have jurisdiction to review such decision.

8 Preparation of Ballot. Amend RSA 56:29 (supp) as amended by striking out in line 2 the words "for each political party" so that said section as amended shall read as follows:

56:29 Preparation. At least 10 days before any primary is to be held an official ballot shall be prepared by the secretary of state, and shall be as nearly as is practicable in the same form as ballots used at elections. Below the name of each office shall be printed in small but easily legible letters the words "Vote for not more than" followed by a spelled number designating how many persons are to be voted for or such other instruction as the secretary of state may deem necessary to clarify the ballot.

9 Number of Ballots Prepared. Amend RSA 56:32 as amended by striking out said section and inserting in place thereof the following:

56:32 Number. Not later than 6 days before a primary the secretary of state shall furnish to the clerk of each town and ward ballots as follows: For each 50 and fraction of 50 voters, as he may determine from the number of voters on the checklist as used at the last preceding primary election, 60 ballots, except that when there are less than 10 voters on said checklist he shall furnish 25 ballots.

10 Change of Registration. Amend RSA 56:40 (supp) as amended by striking out said section and inserting in place thereof the following:

56:40 Change of Registration. Any person whose party membership has been previously registered may change his membership to another party or to an unaffiliated status at any time.

11 Returns. Amend RSA 56:48 by striking out in lines 4 and 5 the words "of each party" so that said section as amended shall read as follows:

56:48 Returns. After the count is completed it shall be announced by the moderator, and the clerk shall, in the presence of the other election officers, fill into blanks, provided him for that purpose by the secretary of state, complete returns of all the votes cast for the different candidates. These returns shall be prepared in duplicate and signed by the

clerk. One copy shall be preserved by him and shall be open to the inspection of any candidate or of his agent authorized in writing. The other copy shall be mailed on the day of the primary, or on the day following, by the clerk to the secretary of state.

12 Canvass. Amend RSA 56:49 by striking out said section and inserting in place thereof the following:

56:49 Canvass. The second day after the primary, or as soon thereafter as possible, the secretary of state shall canvass the returns from all the towns and wards in the state, and upon the completion of such canvass shall declare what 2 candidates have received the greatest number of votes for the various offices.

13 Publication of Results. Amend RSA 56:50 by striking out said section and inserting in place thereof the following:

56:50 —Publication of Result. After the completion of the canvass of returns the secretary of state shall publish in some paper of general circulation the names of the 2 highest vote-getters who thus have been chosen as candidates. He shall cause a copy of such paper to be mailed to each person whose name appeared upon any ballot and, also, shall cause a copy of such paper to be mailed to each town or city clerk.

14 Two Highest by Plurality. Amend RSA 56:53 as amended by striking out said section and inserting in place thereof the following:

56:53 Plurality. Of the persons voted for at a primary the 2 who receive the highest number of the votes cast shall be candidates for the office designated in the ballot, or the delegates from their respective towns and wards, except as otherwise provided in RSA 56:53-a.

15 Limitation. Amend RSA 56:53-a as inserted by 1955, 103:1 by striking out said section and inserting in place thereof the following:

56:53-a Limitation. Any person who is nominated for incompatible offices shall notify the secretary of state within 6 days from the publication of notice provided by RSA 56:50, which of said nominations he will accept. Thereupon the secretary of state shall declare a vacancy exists in the nomination for office said person has declined, which vacancy shall be filled by the person who received the next highest number of votes at the primary.

16 Application for Recount. Amend RSA 56:56 by striking out said section and inserting in place thereof the following:

56:56 Application for Recount. If any person who was voted for upon the ballot is not, according to the count first made by the secretary of state, chosen as the candidate and desires a recount of the ballots cast in the primary, he shall apply in writing to the secretary of state for such recount within 3 days after the date of the advertisement of the result of the primary, provided for in RSA 56:50.

17 Result of Recount. Amend RSA 56:60 by striking out said section and inserting in place thereof the following:

56:60 Declaration of Result. If a recount shall show that some other person than the one declared nominated upon the canvass of the returns from the clerks of towns and wards has the first or second greatest number of votes cast at the primary, such person shall be declared nominated and shall be a candidate for the office in question, instead of the person so first declared, and his name shall be placed upon the official ballot at the following election, unless the result is changed upon appeal to the ballot-law commission.

18 Party Organizations. Amend RSA 56:63 as amended by striking out said section and inserting in place thereof the following:

56:63 Party Organization. The nominees from a party and state delegates of each shall elect a county committee for their party either in said state convention or in county convention upon call of the chairman of the state committee. The county committee shall consist of such number of persons as the state convention shall by vote apportion to each county. The members of the several committees thus chosen shall constitute the state committee of the party. Resignations from the state committee shall be received by the state committee and the state committee shall set a place and time for filling such vacancies by election. A state committee may choose as its officers persons not members of the committee and such officers shall be ex officio members of the committee. The party members in each town, ward or city may effect such an organization as they may deem expedient for advancing the purposes of their party.

19 Disqualification of a Candidate. Amend RSA 56:69-a as inserted by 1961, 152:2 as amended by striking out said section and inserting in place thereof the following:

56:69-a Disqualification of Candidates.

I. In case a person who is a candidate to be voted for at any primary for office of state senator or representative, be-

tween the date of filing and the day of election, shall make oath that he does not qualify for the public office which he seeks because of age or residence, the secretary of state may remove said person's name from the ballot and, if the ballots have not been printed, a new candidate may be substituted under the authority of the party committee of the state, town or ward, and if in a representative district having more than one town, ward, or unincorporated place of the party committee of the county, as the case may require and the name of the substitute candidate shall be printed on the ballots. In the case of the office for state senator the appropriate party committee to fill such vacancies shall be the state committee of the party affected.

II. In case a person who is a candidate to be voted for at any general election shall make oath between the time of his successful primary and the general election that he does not qualify for the public office which he seeks because of age or residence, the secretary of state shall assure that his name is removed from the ballot and the name of the next highest vote-getter at the primary who is not on the ballot as a candidate for such office is added to the ballot.

III. If the ballots have been printed and time will permit the secretary of state may cause adhesive slips or pasters, without any name thereon to be printed, or authorize the same to be done and send or cause the same to be sent to the various town or city clerks representing the territory wherein the disqualified candidate was to be voted for. Said town or city clerks shall deliver said slips or pasters to the election officers before the opening of the polls, and they shall paste them in the proper place on the ballot before it is handed to the voter. Except as provided in this section or in RSA 56:71 no adhesive slips, pasters, or stickers shall be used on any ballot and their use shall invalidate that vote for all candidates for the office where they are so used.

20 Death of Candidates. Amend RSA 56:70 as amended by striking out said section and inserting in place thereof the following:

56:70 Death of Candidate.

I. In case of the death of any party candidate to be voted for at any primary, between the date of filing and the day of election, a new candidate may be substituted under the authority of the party committee of the state, county, town or ward, as the case may require, whose name shall be printed



upon the ballots if they have not been printed. In case of vacancies in candidacies for the offices of state senator and councilor, the appropriate party committee to fill such vacancies hereunder shall be the state committee of the party affected. If there is a vacancy in the candidacy in the office of state representative in a representative district having more than one town, ward or unincorporated place, the county committee in which the district is located shall fill the vacancy.

II. In case of the death of any candidate to be voted for at any general election between his successful primary and the general election, the next highest vote-getter not nominated for that office shall become a candidate for that office.

21 Party Columns. Amend RSA 59:4 by striking out said section and inserting in place thereof the following:

59:4 Party Columns. The names of candidates nominated shall be arranged upon the ballot in perpendicular columns. The presidential and vice-presidential candidates of each party shall be arranged in separate columns, and the presidential and vice-presidential candidate of the party receiving the largest number of votes at the last preceding presidential election shall be placed in the first column.

22 Order of Offices on Ballot. Amend RSA 59:5 by striking out said section and inserting in place thereof the following:

59:5 Order of Offices. The order in which the officers to be voted for shall appear shall be as follows: Electors of president and vice-president of the United States, governor, United States senator, representative in congress, councilor, state senator, representative to the general court, county officers, town or ward officers.

23 Designation of Office. Amend RSA 59:6 as amended by striking out said section and inserting in place thereof the following:

59:6 Designation of Office. Immediately to the left of each set of columns shall be printed a column in which shall be printed the political designation of the office for which the candidates whose names are listed in the columns to the right have been nominated, as "For Governor" and the like, and below such designation of each office shall be printed in small but easily legible letters "Vote for any (here insert a spelled number designating how many persons are to be voted for)." After each person's name on the ballot shall be

indicated that person's political party or the designation "unaffiliated".

24 Presidential Party Designation. Amend RSA 59:9 by striking out said section and inserting in place thereof the following:

59:9 Party Designation. Above the column or list of presidential and vice-presidential candidates shall be printed in large, plain letters the name of the political party by which the candidates in such column or list were nominated.

25 Repeal. The following sections are hereby repealed:

I. RSA 56:27 relative to nominations by party committees.

II. RSA 56:31 relative to party designations on and color of primary ballots.

III. RSA 56:32-a relative to number of ballots for a new party.

IV. RSA 56:33 relative to sample ballots.

V. RSA 56:37 relative to hearings on alterations of party registrations.

VI. RSA 56:39 relative to party registration.

VII. RSA 56:44 relative to voting at primaries.

VIII. RSA 56:45 relative to challenge of voters.

IX. RSA 56:46 relative to votes on different ballots.

X. RSA 56:55 relative to filling of vacancies.

XI. RSA 56:73 thru RSA 56:98 relative to nominations by caucus and convention and the calling and conducting of caucuses.

XII. RSA 59:10 relative to party circles on ballots.

XIII. RSA 59:11 relative to party emblems on ballots.

XIV. RSA 59:69-a relative to nominees of more than one party.

26 Effective Date. This act shall take effect 60 days after its passage.

Sen. Monier requested a roll call. Seconded by Sen. Jacobson.

The following Senators voted yea: Bergeron, Jacobson, Saggiotes, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Sanborn, Provost, Brown.

The following Senators voted nay: Lamontagne, Poulsen, Gardner, Bradley, Hancock, Healy, Bossie, Downing, Preston.

12 yeas 9 nays

Amendment adopted.

Sen. Lamontagne moved to indefinitely postpone HB 167.

Motion failed.

Ordered to third reading.

HB 1063, relative to appropriations of governmental units by warrant articles. Inexpedient to legislate. Sen. Monier for the committee.

Sen. MONIER: This is the bill that we had before us once before. It came back to committee and it was amended. I want to make sure that we all have the amended version. If you do not please follow me on the first printed page where it comes down to "shall be construed" in the second paragraph, 4d:4c. Read the whole thing and then where it says "the budget accordingly" that is the end of the sentence. The amendment should read: "subject to the 10% limitation prescribed by RSA 32:8." When we dealt with this in committee there was a split feeling on this and when we carefully went into it we found out that what you are doing here and it was made inexpedient for that purpose was that you are having the possibility, any article which had been presented by petition which appropriated monies, whether or not the item was also included in the budget would still have a separate vote and would amend the budget accordingly. We felt upon looking at it, and I mean upon the selectmen's concepts of Senator Poulsen's motive, that if it is going to be voted out one place or the other it doesn't matter where it is voted. That this is merely confusing the issue and the basic idea of this is that we thought the idea was a good idea is that you can put a petition in for money in a budget but when you are done, and you vote the budget any thing you have voted in the article is automatically touted or retouted so the final figure of the budget which you vote on it equals what your articles are. On that basis we didn't see any reason for the vote. I think we are going to have all kinds of problems with this and I am hoping that Senator Poulsen will help me out on this.

Sen. Jacobson moved that the words "ought to pass" be substituted for the words "inexpedient to legislate."

Sen. JACOBSON: Today is liberty for the voter day. What this bill does in fact makes it perfectly clear that when there is a petition presented to the town under the rights of petition, that that petition can not be negated by the budget committee. That is what this bill does. What happens is this: if a petition comes in for an article with an appropriation it is sent to the Budget committee and the Budget Committee either rejects or accepts it. If it accepts it, there is no problem anyhow. In New London some years ago, in fact I think it was my first term in which it had to do with the Kearsarge regional Visiting Nurses' association in which a petition was issued to place that article in the warrant. It went to the Budget committee, the Budget committee rejected it. As you know they have the power to reject and, therefore, it was ruled because they had rejected it that it cannot come out on the warrant so I put an article in the I mean a bill through, that went to this question about the petition. But it still is happening. And what this bill does in the first section is that it requires that the town be allowed to vote on the issue. The budget committee has the authority to say not recommended by the committee and that can be put on the warrant. But I don't believe that they have a right to exclude that article from the warrant. What this does and some selectman said well there is no statutory authority requiring us to do it. What I am saying is that this article says in statutory authority it must go on.

Sen. POULSEN: Do you for a minute suspect that the budget committee was exceeding their authority when they eliminated it from the printing of the warrant?

Sen. JACOBSON: They certainly have. And what this does is clarify that position.

Sen. POULSEN: Do you agree that the law already is that they can't do that?

Sen. JACOBSON: I would say that the constitutional authority as well as the statutory authority says that they cannot but it still happens and we had an example in our own town.

Sen. BRADLEY: Do you know where volume I of the statutes is?

Sen. SMITH: Yes it is buried up here.



Sen. BRADLEY: Because if you do I will show you where it is already a law. They have to put it on the warrant. And I don't know why you think they will obey this law when they ignore the existing law.

Sen. JACOBSON: Senator this question was actually appealed to the old tax commission and the old tax commission waffled on the issue and said that it wasn't specifically clear.

Sen. BRADLEY: What bothers me about this is the question of whether or not we are giving the voters line item veto power on the budget by this bill. What I thought the bill was all about reading between the lines.

Sen. JACOBSON: No it is not

Sen. BRADLEY: Do you agree with me . . .

Sen. JACOBSON: If you can show that then I am against the bill because that then subverts the authority of the budget committee but it is speaking, for example, on section 3 of the article goes to school district meetings where it occurs very often.

Sen. BRADLEY: Then for the purpose of legislative intent it is clear that you are not intending by this bill, amendments to it, to expand the power of the voters at the meeting with respect to their line item veto power. There is no expansion of power here as far as the intent goes.

Sen. JACOBSON: Absolutely not Senator. The intention of this is to allow the right of the petition to be fully executed. This has nothing to do with chapter 32 with regards to the municipal budget committee with regards to its authority to set the budget and the town meeting cannot go in excess of 10% of what the budget says. It does state very specifically that these items shall be separate articles in the warrant and of course the budget committee has the authority to review this and make a decision. They can say not recommended but the thing that I do not want to have happen is to exclude it.

Sen. SANBORN: Senator I heard your remarks and I agree somewhat with Senator Bradley and Senator Poulsen having been on budget committees. It was always our assumption if an article came in by petition we still had to put it in the warrant. It had to appear and we had our recommendations. However, one thing that bothers me with this bill is down here in your section 3, 30 days before the date prescribed for the school district meeting. That is usually

after the final meeting of the budget committee. The budget committee has a certain period before the school meeting when they have to go back and have their final public meeting and this is something some time after that.

Sen. JACOBSON: Senator I do not believe that that part of the statute is being changed. I think that the only change that is taking place is in the latter part.

Sen. KEENEY: I am very glad that there are other people looking at HB 1063 from a broad point of view but I would like to add some historical perspective as to what 1063 intended to do. I am not sure that I have an amended version, I have the original HB before me. An occasion arose last March where a budget committee had in its proposed budget added in additional personnel, additional services, an additional variety of things into the line item figures. After the proposed budget became public, the correct number of petitioners entered warrant articles by petition covering the expanded figures in the town budget. The problem arose when the budget and the warrant article came to the floor of the town meeting. As to which prevailed and if the warrant article was passed but a line item in the budget is not and the warrant article is referring to the same thing as the line item was. I am not up on just how this case may be resolved but I believe it has become a legal matter.

Division vote: 8 Senators voted yea; 10 Senators voted nay.

Motion failed. (Sens. Rock, McLaughlin recorded in favor.)

Motion of inexpedient to legislate adopted.

HB 316, relative to the exemption period for subdivision plat approval. Ought to pass with amendment. Sen. Monier for the committee.

#### Amendment to HB 316

Amend section 1 of the bill by striking out same and inserting in place thereof the following:

1 Exemption Period. Amend RSA 36:24-a (supp) as inserted by 1975, 142:1 by striking out said section and inserting in place thereof the following:

36:24-a Four-Year Exemption. Every plat approved by the planning board and properly recorded in the registry of deeds shall be exempt from all subsequent changes in subdivision regulations and zoning ordinances adopted by any city or town, except those regulations and ordinances which expressly protect public health standards such as water quality and sewage treatment requirements, for a period of 4 years after the date of recording, provided, however that once substantial completion of the improvements as shown on the plat have occurred in compliance with the approved plat, or the terms of said approval, the rights of the owner or his successor in interest shall vest and no subsequent changes in subdivision regulations or zoning ordinances shall operate to affect such improvements.

Sen. MONIER: The amendment is in front of you. It was in the calendar but it is incorrect in the calendar so this is a direct copy of the first amendment. This bill is an agreed upon bill as it now stands. There was a senate bill that was exactly the same except that it was for six years extension. The House refused to concur and this was Representative Hanson's bill which we held in committee to make certain that they were able to pass each other, one of them didn't. The House had passed it as four years, if we send it back it will be four years and supposedly they will concur with Representative Hanson. I, therefore, suggest we pass it as it stands as amended. The amendment is in front of you and that is the end of it.

Sen. BOSSIE: Mr. President I rise to speak in favor of this. I would like to put for the record that this is a prospective amendment to the existence of 3224a and is not retroactive in fact. This bill and this amendment will have significance sixty days after its approval by the Governor. So this would apply to any plat that is approved after that time and not before that time. Now it is three exemption and that has been from July 20th 1975 until now. I also would like to point out that this applies to every plat approved by the planning board and properly recorded in the registry of deeds. So in order to make it uniform, I think a period of 60 days would be a standard for which one would be expected to record something in the registry of deeds nor to be reasonable so as to permit the four year exemption. Also with regards to vested rights, basically all this does is to clarify what the sup-

reme court has already interpreted as being vested rights. This would give owners, no less, no more than the law that the supreme court has interpreted at the present time. I think it is a very reasonable approach to a very sticky problem and I would go along with it.

Amendment adopted.

Sen. Jacobson moved an amendment to HB 316.

Sen. JACOBSON: Mr. President, this amendment has to do with one specific situation and that is in some towns in New Hampshire local regulations are stronger than the state regulations with regards to septic systems. I take for example the town of New London which has a very difficult kind of soil situation so its regulations are stronger. What this bill says before you get state approval you get your local approval before you get your state approval. The problem is that these towns that have this situation, the people go down and get state approval and then say well I have state approval. You have to give it to us. If your regulations are less than the state regulations then it doesn't mean anything. Or if they are equal to it doesn't mean anything but in the situation that some towns face this will prevent a lot of hassling.

Sen. POULSEN: Mr. President I rise in opposition to this amendment. Senator Jacobson and I have talked this over before and the problem remains the same that while it may be beneficial to the town of New London it will be a nuisance to the town of Littleton. Many towns want the subdivider to get his water approval from the state first before they waste time fooling with them. The entire opposite of this would be to apply to a town for a building permit, the town would go through all the business of giving a permit contingent on the state's water supply's approval of his septic system. It turns out that they won't approve it, that whole effort is wasted. If we do it the other way and we say alright, get your water supply pollution control approval of your septic system first then we'll look at your plans, the zoning and everything else and if it fits fine, we will give you, the town has saved the effort of going through it needlessly. I recommend that we do not pass the amendment or if we do pass it that it be changed around so that it can be optional or applied to towns that have that type of zoning but not in this form.



Division vote: 7 senators voted yea; 10 senators voted nay.

Amendment failed.

Ordered to third reading.

HB 845, revising the access to public records law (RSA 91-A). Ought to pass. Sen. Monier for the committee.

Sen. MONIER: Mr. President this was one of the bills that was so-called kept in committee. The reason it was delayed was, one, I was sick on one day and second that I was checking something with attorney general Souter. This bill has no amendment on it from the Senate. I have been asked that question twice and the question was not an amendment. This is the right to know law or to get into everybody else's business. I had some qualms with this particular bill and I asked the committee if I could ask the attorney general. I would like to try to resolve a couple of the questions. The question that was raised to me several times with respect to this law, does it affect the legislative committee and its executive meeting. The answer is no. The legislative committees are exempt from it. The second question that was very important to me was could you have an executive committee with a vote which is required now proposed to the public including the press for purposes of deliberation. That answer is according to the attorney general, and I put it on the record that he told me so and it is on that basis that I am voting with the bill. The answer was yes. So there is no change in that. Originally the first bill that came in put together by I believe some of the press, was demanding everything and they backed off from this and now this bill, 845, as amended, no amendments in the Senate it was amended in the House, includes the protection of legislative committee from this and second they may by vote close their executive sessions for deliberative purposes. As long as those are in it I have no qualms with the bill and I don't think we would have any other problems with the bill. There are some things in here that you should know. The House committee had recommended them referring this to interim study but a floor amendment saved the bill. The amended bill does make some changes in terms of the current law. It creates a preamble which establishes the policy of openness and greatest possible public access for the purpose of the act a meaning is de-

fined as a form of a public body convenient. Therefore, five of us are having breakfast someplace and somebody comes along and says that they have a right to listen to my personal conversation. The answer is no. If they want to challenge it they can go to court. It clarifies in an emergency which would relieve a body from a 24-hour notice rule which was also very important to us and I cited several instances in which in the crunch to the senate you may have some bills coming in that you just don't have a way for executive session to give 24-hour notice. And that once again, according to the attorney general, he tells me, is exempt from this although the code was added that you should attempt to give as much notice as possible. I made a specific comment to the effect would he consider it to be as much notice as possible if you announced it on the senate floor that you were going to have an executive meeting. He said yes. I said what about those that didn't hear it, he said well they should have listened. I am perfectly satisfied with that kind of a reply. Parties or agencies may meet in executive sessions for deliberations and I already covered that but you must have a vote and it should be a recorded vote and on record. I have no objections with that. You go down through this bill as it came from the House as amended with no changes in the senate, after a full explanation of some inquiries that had come to me from the Senate, I do agree with it, it is here, it is ought to pass as the committee had voted and I thank them for the courtesy of them allowing me to check with the attorney general on these matters. I urge its passage.

Sen. HANCOCK: Mr. President, members of the Senate, the committee is in agreement on this bill, there were representatives from the press who endorsed it heartily, the New Hampshire Press Association which has a membership of 22, endorsed it, and we recommend its passage.

Sen. KEENEY: I had the original and I just glanced at Senator Hancock's amended one but on the analysis, number 4 says that the decision reached at a public meeting that was not conducted in accordance and so forth, is null and void. Can you expand on that. Is that, how long do you have to wait?

Sen. MONIER: I cannot expand on it. I think it is perfectly self-explanatory. The thing that I was concerned with was that I would not support the bill in any way whatsoever if the legislative committees were going to have to be stuck

with some kind of a public notice in order the press to be there. Because of the simple fact that we have been in a crunch in the last two weeks and there is no way we could get a public notice out. The bill says we are exempt.

Sen. KEENEY: I was reading this in the context of local government and I am aware of a court case with one of the charges being violation of right-to-know law and the court case was entered at least two years ago and a lot of decisions may have been carried out and a decision not having been given as to whether or not they were in violation. If this should happen after this bill passes I am concerned to know if there is a time limit that would hold up the decision.

Sen. MONIER: I just can't answer and that never came up at our hearing.

Sen. BRADLEY: I believe the null and void is out however I would state that one of the very latest opinions from the supreme court on this question as I read it stands for the proposition that if you don't apply it is null and void already under existing case load. There was a case and I am trying to think of a situation, I think it had something to do with the firing of a teacher or not renewing a teacher was taken in violation of the right-to-know law. The court declared it invalid and I forget the result. I take it it is the law already although perhaps others could read that some restrictions into that case.

Sen. Jacobson in the chair.

Sen. Bradley moved an amendment to HB 845.

#### Amendment to HB 845

Amend RSA 91-A:2, II as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

II. All public proceedings shall be open to the public, and all persons shall be permitted to attend any meetings of those bodies or agencies. No vote while in open session may be taken by secret ballot. Any person shall be permitted to use recording devices, including but not limited to, tape recorders, cameras and videotape equipment, at such meetings. Minutes of all such meetings, including names of members, persons appearing before the bodies or agencies, and a

brief description of the subject matter discussed and final decisions shall be promptly recorded and open to public inspection within 72 hours of the public meeting, except as provided in 91-A:6 of this chapter, and shall be treated as permanent records of any body or agency, or any subordinate body thereof, without exception. Except in an emergency or when there is a meeting of a legislative committee, a notice of the time and place of each such meeting, including an executive session, shall be posted in 2 appropriate places or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to such meetings. An emergency shall mean a situation where immediate undelayed action is deemed to be imperative by the chairman or presiding officer of the body or agency who shall employ whatever means are available to inform the public that a meeting is to be held. The minutes of the meeting shall clearly spell out the need for the emergency meeting. When a meeting of a legislative committee is held, publication made pursuant to the rules of the house of representatives shall be sufficient notice. If the charter of any city or guidelines or rules of order of any body or agency described in section 91-A:1 requires a broader public access to official meetings and records than herein described, such charter provisions or guidelines or rules of order shall take precedence over the requirements of this chapter.

Sen. BRADLEY: All this does to the present bill is add under roman numeral 2 there the second sentence which reads that no vote in open session may be taken by secret ballot. This is to deal with something that apparently has been abused in some areas. I have heard and I thought that this was being incorporated as one of the parts of the original bill to take care of. What happens apparently is that the board whatever it is, the body, will be supplied with a notice, they let people in with their recorders, they have otherwise complied but some tough vote comes up and they vote to conduct the vote by secret ballot so that the public won't know who is voting which way. I think that this is totally contrary to the spirit of the right-to-know law and it ought to be included with these other good amendments.

Sen. ROCK: Senator Bradley, how would this apply on the first legislative day when this legislature meets in public session and all the recorders are in and we proceed im-



mediately to vote by secret ballot to elect the secretary of state?

Sen. BRADLEY: Good question. I'll shake up some of the press with my answer perhaps. It is my firm belief that the right to know law does not apply to this legislature despite what the statute seems to say because the state constitution says that the House and Senate shall settle their own rules and I don't think that that should be altered because I don't think our rules and our proceedings can be altered by the right to know law. That doesn't bother me, that may bother others.

Sen. ROCK: You mean Pavlov's dogs will salivate outside the doors if your interpretation is correct, that the legislature does not have to abide by the right-to-know law?

Sen. BRADLEY: There is very little doubt in my mind that that is true. I think that we should act as if it doesn't apply. I do think we ought to conform ourselves but it doesn't bother me that if somebody claims we violate the right-to-know law that our actions are going to be invalidated.

Sen. ROCK: Let us move outside the chambers of the legislature and assume now that we are dealing with the university of New Hampshire and they are voting to elect a new president at Plymouth and there is two candidates and they move to vote by secret ballot. What would this do to that vote?

Sen. BRADLEY: That is one of those things which allows you to go in executive session. It is the hiring of any person as a public employee is a proper subject for executive session. If you go into executive session you vote anyway you want.

Sen. ROCK: No you can't you can't take any votes in executive session. You can talk till your ears fall off but you cannot vote.

Sen. BRADLEY: No, the right-to-know law allows any public body and we are assuming this is to come under it, to go into executive session not only to deliberate but to act on any of the following matters a) dismissal, promotion, compensation of any public employee or b) the hiring of any person as a public employee. So if you are entitled to go into executive session you are entitled to vote by secret ballot or if you are on one of those subjects that has to be out in the open you have to vote in the open.

Sen. SANBORN: My question is similar to Senator Rock's only it extends in another direction and I am trying to understand your sentence. No vote while in open session will be taken by secret ballot, doesn't that include town meetings? A good many town warrant items in town meetings are on secret ballot, bond issues etc.

Sen. BRADLEY: I don't think so Senator and if it is I would certainly be willing to have it cleared up in a committee of conference if this is where this thing goes but a public proceeding is defined as the transaction affecting the citizens and it lists them by any of the following: 1) the general court and it is not that; 2) it is not the governor's council 3) any board or commission of any state agency or authority, it is not that; 4) any board, commission, agency or authority of any county, town, municipal corporation, school district or other political subdivision. I don't think that includes the town meeting.

Sen. SANBORN: Well you said authority, and the authority of the town is the town meeting.

Sen. BRADLEY: I believe that is like the Housing Authority or the Port Authority, that sort of thing.

Sen. SANBORN: I would be awfully skeptical on that senator.

Sen. BRADLEY: I don't think so senator.

Sen. SANBORN: If you are on the committee of conference on this I wish that you would get that in that it does not include a public town meeting.

Division vote: 14 Senators voted yea; 2 Senators voted nay.

Amendment adopted. Ordered to third reading.

HB 600, relative to the importation of dogs and cats into the state and the sale of same. Interim Study. Sen. Monier for the committee.

Sen. MONIER: This is the bill that we had recommitted to committee because it had two amendments at the last minute from veterinarians who still were making up their minds from all of the things that had been gone through. The many times that it had been studied, the length of time and on the last day of the hearing we were still getting amendments from veterinarians because of mistakes in the bill. We took it back

to committee and I had a veterinarian check it and he said there were two more mistakes in it still. I suggest very strongly that we put it to interim study and forget it for the session.

Adopted.

HB 439, authorizing the water supply and pollution control commission to implement the provisions of RSA 146-A relative to oil spillage in public waters and making an appropriation therefor. Refer the bill as amended to the Supreme Court. Sen. Trowbridge for the committee.

#### Amendment to HB 439

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

authorizing the water supply and pollution control commission to implement the provisions of RSA 146-A relative to oil spillage; establishing the New Hampshire Oil Pollution Control Fund; and making an appropriation therefor.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Procedures for Control of Oil Spillage in Public Waters. Amend RSA 146-A:11, V (supp) as inserted by 1971, 266:1 by striking out said paragraph and inserting in place thereof the following:

V. Personnel and Equipment. The commission shall establish and maintain at such ports within the state, and other places as it shall determine, such employees and equipment as in its judgment may be necessary to carry out the provisions of this chapter. The commission may employ a sanitary engineer III, a sanitary engineer II, a water pollution biologist and a clerk-stenographer III. The salaries of such employees and cost of such equipment shall be paid by the water supply and pollution control commission budget. The water supply and pollution control commission shall periodically review procedures for the prevention of oil discharges into the coastal waters of the state from offshore drilling pro-

duction facilities. Inspection and enforcement employees of the commission in their line of duty under this chapter shall have the powers of a constable.

2 Funding. Amend RSA 146-A:11 by inserting after paragraph V the following new paragraph:

VI. Agency to Receive and Utilize Funds. In order to fund the activities of the staff as specified in paragraph V there is hereby established the New Hampshire oil pollution control fund; such fund to be a nonlapsing revolving fund for use by the commission in carrying out the purposes of this chapter. To this fund shall be credited all license fees, penalties or other fees and charges generated by the chapter as well as any federal or other funds which are made available for the purposes of oil pollution control. The fund shall be charged any and all expenses of the commission associated with the implementation of the chapter, including administrative expenses as well as costs for removal or corrective measures deemed necessary as a result of oil discharge or oil spillage to the surface and ground waters of the state in the manner described in RSA 146-A:3. Monies in the fund, not currently needed to meet the obligations of the commission in the exercise of its responsibilities under this chapter shall be deposited with the treasurer of the state to the credit of the fund, and may be invested as provided for by statute. Interest received on such investment shall be credited to the New Hampshire oil pollution control fund. Any operator of an oil terminal facility having a storage capacity in excess of 500 barrels within the state shall obtain an annual license for the operation of such facility from the commission. The fee for such annual license shall be determined on the basis of one cent per barrel of oil, petroleum products or their by-products transferred to such facility by the licensee during the annual licensing period and shall be paid monthly on the basis of records certified to the commission by the licensee. Whenever the balance in the fund has reached a sum of \$1,500,000, license fees shall be reduced so as to recover only annual administrative expenses and funds essential for research on preventive measures.

3 Appropriation. The sum of \$70,884 is hereby appropriated for the fiscal year ending June 30, 1978 for personnel services, current expenses, travel and other associated expenses; and for like purposes, the sum of \$71,821 for the fiscal year ending June 30, 1979, and the governor is hereby



authorized to draw his warrants for said sums out of any money in the treasury not otherwise appropriated.

Sen. TROWBRIDGE: This is Mrs. Schreiber's bill where she wanted to use gas tax monies. We had a big problem with the fact that the House Appropriations committee had changed it and had gotten it away from the language that she had worked out with Mr. Stever of the attorney general's office. Even so, the language that she has is questionable and it will always be questionable in my mind until the court rules on it. All we want to do is to take her amendment that is the original way that she wanted it, and work it out with Don Stevers and send that to the court instead of sending the bill that came from the House. Please go along.

Amendment adopted. Referred to the Supreme Court.

HB 573, providing for the acquisition of a certain dam and water rights by the water resources board and making an appropriation therefor. Ought to pass with amendment. Sen. Trowbridge for the committee.

#### Amendment to HB 573

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

providing for the acquisition of certain dams and water rights by the water resources board and making an appropriation therefor.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Dams and Water Rights; Acquisition Authorized. Amend RSA by inserting after RSA 482-K the following new chapters:

#### CHAPTER 482-L

##### Acquisition of a Certain Dam and Water Rights

482-L:1 Acquisition Authorized. For a consideration of \$1 the New Hampshire water resources board is authorized to accept conveyance from the owner of the following de-

scribed property for the purpose of improving and controlling certain water rights for the benefit of the state: the dam, dikes and appurtenances contained and controlling the waters of Hubbard pond in the town of Rindge including flumes, sluiceways, equipment and apparatus connected with or appurtenant to said dam and dikes, including the right to pass and repass to said dam and dikes for the operation, maintenance, repair, reconstruction and construction of said dam, dikes and appurtenances. The grantors' right, title and interest in the lands above the highwater level of the aforesaid pond, including all islands, which have been heretofore conveyed to them are hereby reserved.

482-:2 Repairs, Etc. Said board after said acquisition shall, from time to time, make repairs and modifications to said dam so acquired or rebuild, as the case may be, so as to best serve the interests of the state.

482-L:3 Tax Exemption. The properties authorized to be acquired by the water resources board by this chapter for the benefit of the state shall be exempt from taxation as long as said properties are held by the state.

#### CHAPTER 482-M

##### Acquisition of a Certain Dam and Water Rights

482-M:1 Acquisition Authorized. For a consideration of \$1 the New Hampshire water resources board is authorized to accept conveyance from the owner of the following described property for the purpose of improving and controlling center water rights for the benefit of the state; the dam, dikes and appurtenances containing and controlling the waters of Pratt pond in the town of Mason including flumes, sluiceways, equipment and apparatus connected with or appurtenant to said dam and dikes, including the right to pass and repass to said dam and dikes for the operation, maintenance, repair, reconstruction and construction of said dam, dikes and appurtenances. The grantors' right, title and interest in the lands above the highwater level of the aforesaid pond, including all islands, which have been conveyed to them are hereby reserved.

482-M:2 Repairs, Inc. Said board after said acquisition shall, from time to time, make repairs and modifications to said dam so acquired or rebuild, as the case may be, so as to best serve the interests of the state.

482-M:3 Tax Exemption. The properties authorized to be acquired by the water resources board by this chapter for the

benefit of the state shall be exempt from taxation as long as said properties are held by the state.

#### CHAPTER 482-N

##### Acquisition of a Certain Dam and Water Rights

482-N:1 Acquisition Authorized. For a consideration of \$1 the New Hampshire water resources board is authorized to accept conveyance from the owner of the following described property for the purpose of improving and controlling certain water rights for the benefit of the state: the dam, dikes and appurtenances containing and controlling the waters of Ballard pond in the town of Derry including flumes, sluiceways, equipment, and apparatus connected with or appurtenant to said dam and dikes, including the right to pass and repass to said dam and dikes for the operation, maintenance, repair, reconstruction and construction of said dam, dikes and appurtenances. The grantors' right, title and interest in the lands above the highwater level of the aforesaid pond, including all islands, which have been conveyed to them are hereby reserved. The ownership, use and maintenance of the Taylor Mill, so called, near the dam on Ballard pond in the town of Derry, including all necessary machinery and controls, is not herein conveyed.

482-N:2 Repairs, etc. Said board after said acquisition shall, from time to time, make repairs and modifications to said dam so acquired or rebuild, as the case may be, so as to best serve the interests of the state.

482-N:3 Tax Exemption. The properties authorized to be acquired by the water resources board by this chapter for the benefit of the state shall be exempt from taxation as long as said properties are held by the state.

#### 2 Appropriation.

I. The sum of \$70,200 is hereby appropriated for the biennium ending June 30, 1979 to be expended by the water resources board for repairs, modification or rebuilding of 2 dikes, a dam and ditch and a spillway at Pratt pond in the town of Mason. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

II. The sum of \$32,000 is hereby appropriated for the biennium ending June 30, 1979 to be expended by the water resources board for repairs, modification or rebuilding of the dam at Hubbard pond in the town of Rindge. The governor is

authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

III. The sum of \$52,500 is hereby appropriated for the biennium ending June 30, 1979 to be expended by the water resources board for repairs, modification or rebuilding of the dam at Ballard pond in the town of Derry. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Effective Date. This act shall take effect July 1, 1977.

Sen. TROWBRIDGE: The amendment here replaces the dams that were taken out somewhere along the process that happened to be in Rindge and Mason. I thought that that was interesting that they had gone out and another one stayed in and so I asked my colleagues on Senate Finance why it wouldn't be good to put back the dams in Rindge and Mason and they tended to agreed. So that is what the amendment does.

Amendment adopted. Ordered to third reading.

HB 542 relative to a state-wide solid waste management program. Ought to pass. Sen. Trowbridge for the committee.

Sen. TROWBRIDGE: This is a bill that continues the solid waste management program along with what we did. It asks for a full \$200,000 appropriation. In 1973 or 4 there had been \$100,000 appropriated and it is now down to \$26,000. What we are saying in this bill is just leave it without the appropriation and let them draw off the \$26,000 to keep studying as to who should go into what recycling program and that is all it does. No new money.

Adopted. Ordered to third reading.

HB 529, relative to reimbursing victims of violent crimes and making an appropriation therefor. Ought to pass as amended. Sen. Monier for the committee.

Amendment to HB 529

Amend RSA 622-B:7 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:



622-B:7 Attorney's Fees. The council shall as a part of any order entered under this chapter, determine and allow reasonable attorneys' fees.

Sen. SAGGIOTES: Mr. President this is a bill that permits the victim of a crime or in case of a death to file with the criminal victimization council for compensation. The council is composed of five members, one who is a justice of the supreme court or superior court, the second member is the attorney general or assistant to the attorney general, the third member is a member of the welfare agency in the state, a member of the New Hampshire Bar Association and a member of the general public. The bill was sponsored by Representative Demonte who happened to be a victim of a violent crime and it was his opinion that an individual such as that who is subjected to high costs of medical care, hospital care, could be helped very much with a bill such as this. There was an appropriation of \$50,000 in the original bill which the House Appropriations committee struck out. The amendment that the Senate Finance committee struck out. any amount of money for property damages and limits the compensation only to medical expenses. It allows for claim for pain and suffering; it allows for loss of earning power as a result of the person being unable to work and it limits the payment to \$5,000. And as I said, there is no allowance for any property damages.

Amendment adopted. Ordered to third reading.

## SUSPENSION OF RULES

Sen. Trowbridge moved that the rules of the Senate be so far suspended as to allow the introduction of a committee report on HB 567 not previously advertised in the journal.

Adopted.

HB 567, relative to the New Hampshire retirement system cost of living increases. Ought to pass. Sen. Trowbridge for the committee.

Sen. TROWBRIDGE: This bill is an interesting bill and it is a wrap-up of two things. We sent over to the supreme court this bill to find out whether we could pay pensioners

over a 24 month period instead of having to pay it all in one lump sum. I am sure you are used to that. That court decision came back on 567 saying everything is okay. You can and that the constitution does not prevent it. However that had been off to the courts for so long that the other two retirement bills that we did, number 601 and 518 legally we ought to put into law the part of 567 so that we can say the supreme court did judge the law that we passed. All the bill now says in the first part is that you can pay over a 24-month period, that is parallel to what 601 and 518 say. The house appropriations committee then decided that to make it a little bit more worthwhile they would put into this as an amendment the payment of the \$978,000 that we owe to the pension fund for 1976. We can either do it now or we can wait and do it in the budget later. It is in our budget calculations. All it does is draw on your surplus, it is available at the end of this year, by 976 you go forward, it will be a wash out either way. This recognizes that payment this year and I think that is an appropriate thing to do in our calculations and in that way the bill has some force. We are going to have to pay that \$978,000 either way and so they thought this was a good way to get it done and out of the way. That is what the bill does. It is a real wrap up of two separate items.

Adopted. Ordered to third reading.

HB 1137, relative to capital punishment. Inexpedient to legislate. Sen. Bradley for the committee.

Sen. BRADLEY: Mr. President, this bill is an amendment to capital punishment law which is unconstitutional to begin with and probably the amendment to it as proposed by this bill is unconstitutional. I am opposed to it and you all know why and I think we ought to vote it inexpedient and I won't say anymore about it.

Sen. LAMONTAGNE: Senator, the proposed amendment now, what does it do in changing the code law that we now have on the books as far as capital punishment goes?

Sen. BRADLEY: The bill as it came to us from the House where it was amended basically sets up a bifurcated trial, one on the question of guilt and the second on the question of penalty. The first jury would decide whether or not the man

was guilty and the next jury would decide whether or not to string him up. Presently, that is all done by one trial.

Sen. LAMONTAGNE: Senator you said it was unconstitutional. Do you mean the law that we now have on the books is unconstitutional or the bill that is proposed by the House?

Sen. BRADLEY: It is quite clear that the law on the books as I told you two years ago or four years ago is unconstitutional. That is pretty clear now from the latest supreme court decision. Probably the bill as it was amended in the House would make the law constitutional under the most recent supreme court decisions but whether it is going to stand up under future supreme court decisions, your guess is as good as mine and a legal mind won't help you very much on guessing.

Sen. LAMONTAGNE: Senator how many members of your committee were present during that public hearing?

Sen. BRADLEY: I don't think I remember Senator.

Sen. LAMONTAGNE: How many people appeared for the bill?

Sen. BRADLEY: There were about two people I think that were for the bill and one of those was for it with amendment, there were let's see, there was one person in favor of the bill representing the sponsor, a representative for the attorney general's office wants the bill with amendment, a representative wanted an amendment but was probably for capital punishment. Another representative was for capital punishment and for the bill but wanted to change the method. I guess there were about four you could say one way or another was for it. There were five people speaking against it and a few others that signed up against it, no one signed up for it.

Sen. LAMONTAGNE: How many attorneys spoke against it?

Sen. BRADLEY: I believe the only attorney speaking against it was the public defender from Merrimack county, Attorney Stein.

Sen. LAMONTAGNE: Senator I wonder if you could tell us again what the bill does as it was presented before your committee which you are reporting inexpedient to legislate. Senate will adopt this bill.

Sen. BRADLEY: It sets up instead of one trial, at which guilt is decided and punishment is decided. Under the exist-

ing law punishment is pretty automatic if you are convicted of one of these particular categorized crimes. It sets up two different trials. If it were jury trials as they usually are, the first jury would decide guilt or innocence and then there would be a second proceeding which the question of the punishment would be decided. Different juries. The second jury wouldn't hear the first time around.

Sen. Lamontagne moved that the words "ought to pass" be substituted for the words "inexpedient to legislate."

Sen. LAMONTAGNE: Mr. President, members of the senate, I'll be honest with you, I did not have the opportunity and didn't have the time to even read the present amendment. But after questioning Senator Bradley I personally feel that at least we are making an attempt of going the right way in trying to comply with the courts. Anything we can do with capital punishment to make some improvements I am for. There has been enough crime and there has been enough murders in this state that certainly something ought to be done. So therefore it is one more step ahead to improve the bill that we passed a few years ago then I am hoping that the senate will adopt this bill.

Sen. Rock requested a roll call. Seconded by Sen. Lamontagne.

The following Senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Keeney, Healy, Sanborn, Provost, Brown.

The following Senators voted nay: Smith, Bradley, Blaisdell, Trowbridge, Hancock, Bossie, Fennelly, Downing, Preston.

13 yeas 9 nays

Motion of "ought to pass" adopted.

Sen. Bossie moved an amendment to HB 1137.

Sen. BOSSIE: Mr. President, I offer this amendment for one of Senator Monier's constituents, Minnie Carswell, who favors the death penalty and she asked me to put in the



amendment, at least the first part. Basically what it does, as you know, our law requires death by hanging within a prescribed period of time. This amendment would change it so that the defendant would choose his own method of his own death, either by hanging, electrocution, firing squad, gas chamber or the administration of lethal drugs. As you know and we do not include Leatrile as a lethal drug, at first glance this may appear to be a very capricious amendment but I assure you it was not offered as such. There are many states that do just this, give them an alternative and let the defendant choose and frankly I guess, all the choices aren't exactly lovely but perhaps C & E would be the choice of many and hanging by the neck is a little dated. In any event, this is a very serious amendment and the only other provision is in paragraph 3 at the bottom of the page. When it states that there are a number of people that will witness the event, the only thing that is included is the judge and the jury. I think that is a very important part of the process when one is to be executed it is a very, very serious thing. So the state has chosen to make this a capital offense, these crimes, so we want to make sure that those who are responsible for delegating the death of an individual shall be so attentive to the question that they should appear. I think this is a very reasonable amendment and I would urge my colleagues to adopt it.

Sen. TROWBRIDGE: Senator Bossie, don't you think that this amendment should have been tacked onto the living will bill?

Sen. MONIER: Senator, I am glad that you made reference to me because that gives me a chance to get on my feet. I would just like to ask you, don't you think that we ought to amend your amendment so that whoever it is that is to be executed for the murder that he committed ought to die in the same way that he committed the murder? Would you mind that?

Sen. BOSSIE: That might be a very interesting thing.

Sen. MONIER: It would have about as much sense as this.

Sen. ROCK: Senator could you give us more rationale for saying every member of the jury, and the trial judge on sat on the defendant's case shall be present?

Sen. BOSSIE: I thought I had. Senator, as you know this is a very serious thing being tried for a capital crime and being found guilty and being executed for a crime. Basically this

will provide that those who would try you would be present to witness your execution so that they do not think that this is some sort of a game in which they have the power over somebody's life and that they can just forget about it afterwards, they should forget about it but immediately after the execution. There are a number of people required by law to attend as you know and this simply would require these other 13 individuals to be present. I think it shows the seriousness of the legislature in requiring the people who favor this finding people guilty and in ordering their execution, should be willing at the same time not to forget about it but to be present then.

Sen. ROCK: Senator would you agree with me that while there is no more serious issue than sentencing a person to death there is also some serious decisions that juries make such as but not limited to: sending a man to prison for life, would you then say that the jury would have to go to prison with him for life too?

Sen. BOSSIE: Let me remark about that. You send a man to prison you can change your mind after. At least the courts can. You send a man to death and you can't change your mind.

Sen. ROCK: Senator you have listed five possibilities here, the fifth one, lethal drugs could involve several. Back in the days of the romans they used to execute the Christians by throwing them to the lions to be eaten by the lions. Would you like to add that one in there too?

Sen. BOSSIE: Let me say that that is being facetious. All of the alternatives that are offered here are in effect in one or more states of the country. We are just providing that well, a lot of people don't care for hanging. The fact remains that if an individual is before a firing squad which may be a choice or otherwise at least it offers that alternative. And as you know for those of you who care, bullets are less expensive than a hanging.

Sen. SANBORN: Senator one remark that you replied to Senator Rock interested me. You said if a man was sent to prison for life the judicial in time could review his case and let him go free. Why doesn't that also extend here?

Sen. BOSSIE: The fortunate thing here is that judges in the general sense, continue, there is continuity. Even though it might not be the same judge who would review this, say subsequent to the time somebody was put to death, they

wouldn't come forward and say gee, you didn't murder, this guy did. They could change their minds and say gee, if it was life imprisonment you could change your mind but with a jury as we know people they get sick, they die and they do all kinds of things and that is the problem with that process. Otherwise it would sound like a very logical thing.

Sen. Bergeron moved the previous question.

Adopted.

Amendment failed.

Ordered to third reading.

HB 129, exempting certain persons from prosecution relative to exposing minors to harmful material or obscenity. Without recommendation. Sen. Keeney for the committee.

Sen. Keeney moved that the words "ought to pass with amendment" be substituted for the words "without recommendation."

Adopted.

Sen. Keeney moved an amendment to HB 129.

#### Amendment to HB 129

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

exempting certain persons from the laws relative to exposing minors to harmful material.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Exempting Certain Institutions. Amend RSA 571-B by inserting after section 3 the following new section:

571-B:4 Exemptions. The provisions of RSA 571-B shall not apply to bona fide scientific or education institutions; schools, libraries; museums; or federal, state and local governmental agencies nor to their employees or officers when acting in their official capacities.

2 Effective Date. This act shall take effect 60 days after its passage.

Sen. KEENEY: This bill is one that you have seen before and you have referred it back to the judiciary committee. In its original form it was a very simple statement exempting all scientific and educational institutions, schools, libraries, museums and the like and their employees from the obscenity statute. The House had amended, the version had expanded it, the judiciary committee originally came back with a broader exemption and you sent it back to us. So we have gone back to the House version which is on page 1311 of the house record and to that we have added primarily one statement that these people shall be exempted until the material involved is material which has resulted in the final conviction of a person and added this or is material which is has been declared obscene in a civil action and brought for that purpose.

Sen. PRESTON: Who is responsible of obscene materials appear in a school or library?

Sen. KEENEY: It is not always easy to pinpoint responsibility but under this bill the school board members or the librarian or the employees would not be responsible unless it was proved that the material was obscene and that has been declared obscene in a civil action.

Sen. PRESTON: But who would be responsible Senator Keeney, in a school or a library?

Sen. KEENEY: I think it would have to be proven that an individual was himself responsible for having put it there, if the librarian or the school board could not be held responsible just because it was there.

Division vote: 14 Senators voted yea; 6 Senators noted nay.

Amendment adopted. Ordered to third reading.

HB 1128, relative to child support enforcement. Without recommendation. Sen. Bradley for the committee.

Sen. Bradley moved that the words "ought to pass with amendment" be substituted for the words "without recommendation."

Adopted.

Sen. Bergeron moved to lay HB 1128 on the table.

Motion failed.



Sen. Bradley moved an amendment to HB 1128.

Amendment to HB 1128

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT  
relative to the support of dependent children.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 161-A the following new chapters:

CHAPTER 161-B  
Support of Dependent Children

161-B:1 Purpose.

I. It is the responsibility of the state of New Hampshire through the division of welfare, New Hampshire department of health and welfare, to conserve the expenditure of public assistance funds, whenever possible, in order that such funds shall not be expended if there are private funds available or which can be made available by judicial process or otherwise to partially or completely meet the financial needs of the children of this state. The failure of parents to provide adequate financial support and care for their children is a major cause of financial dependency on this state.

II. The purpose of this chapter is to provide this state, through the division of welfare, a more effective and efficient way to effect the support of dependent children by the person or persons who, under the law, are primarily responsible for such support and to lighten the heavy burden of the taxpayer, who in many instances is paying toward the support of dependent children while those persons primarily responsible are avoiding their obligations. It is the intention of the legislature that the powers delegated to the division in this chapter shall be in addition to the powers granted by RSA 161, 167, or other existing laws and shall be liberally construed to the end that persons legally responsible for the care and support of children within the state be required to as-

sume their legal obligations in order to reduce the financial cost of the state in providing public assistance funds for the care of the children.

161-B:2 Definitions. As used in this chapter the following words shall have the following meanings unless the context clearly indicates otherwise:

I. "Child" or "children" shall mean any child who is not emancipated, self-supporting or married, and shall include natural, adoptive and step-children.

II. "Dependent child" shall mean a child who is in financial need as determined by the division or who is receiving public assistance.

III. "Division" means the division of welfare, New Hampshire department of health and welfare.

IV. "Director" means the director of the New Hampshire division of welfare, or his designee or authorized representative.

V. "Person" means an individual, trust, estate, partnership, association, company, corporation, political subdivision of the state or instrumentality of the state.

VI. "Public assistance" shall mean money payments furnished by the state pursuant to RSA 161, RSA 167 or any regulations promulgated thereunder, to or on behalf of dependent children.

VII. "Responsible parent" or "parent" shall mean a natural, adoptive or step-parent.

#### 161-B:3 Duty of Division to Enforce Child Support.

I. Whenever the division receives an application for public assistance on behalf of a child and it shall appear to the satisfaction of the division that said child has been abandoned by its parents or that the child and one parent have been abandoned by the other parent or that the parent or other person who has a responsibility for the care, support, or maintenance of such child has failed or neglected to give proper care or support to such child, the division shall take appropriate action under the provisions of this chapter, the abandonment or nonsupport statutes, or other appropriate statutes of this state to insure that such parent or other person responsible shall pay for the care, support or maintenance of said dependent child.

II. The director may accept applications for support enforcement services on behalf of persons who are not recipients of public assistance and may take action as he deems

appropriate to establish or enforce support obligations against persons owing a duty to pay support. Action may be taken under this chapter, the abandonment or nonsupport statutes, or other appropriate statutes of this state, including but not limited to remedies established in RSA 161-C, to establish and enforce said support obligations.

III. The director may establish by regulation, such reasonable standards as he deems necessary to limit applications for support enforcement services. Said standards shall take into account the income, property, or other resources already available to support said person for whom a support obligation exists.

IV. The director may charge a fee to compensate the department for services rendered in establishment of or enforcement of support obligations. The director may by regulation establish reasonable fees for support enforcement services and may, on showing of necessity, waive or defer any such fee.

V. The division, through the child support unit established pursuant to RSA 161:2, XIV, shall collect support obligations for the care, support or maintenance of dependent children. The director may contract with counties, cities, towns or any other person to aid in collecting or to collect support obligations and to administer the child support program established by Title IV-D of the Federal Social Security Act and any and all amendments thereto and regulations promulgated thereunder.

161-B:4 Payment Made to the Division. Upon written notice by the director to a person responsible for support of a dependent child, or to a court or administrative agency having jurisdiction over such a person, that the children for whom a support obligation exists are receiving or have received assistance pursuant to RSA 161 or RSA 167 and regulations promulgated by the division, money to be paid for the support of such a dependent child or children shall be paid through the child support unit of the division. Such notice shall supersede any court or administrative order to the contrary. Whoever knowingly fails to comply with the requirements of such notice shall be guilty of a misdemeanor.

161-B:5 Collection of Child Support. In order to carry out its responsibilities imposed under this chapter, the division is hereby authorized to commence or appear in any proceedings before any court or administrative agency for the pur-

pose of obtaining, enforcing, or modifying an order of support on behalf of any dependent child or any other person for whom the division has a duty to obtain or enforce an order of support under this chapter. The division may commence or appear in any action on its own behalf or on behalf of any dependent child, parent of any dependent child, or on behalf of any other person for whom the division has a duty to obtain or enforce an order of support under this chapter.

161-B:6 Financial Statements. Any parent or other person whose absence or failure to support is the basis for a grant of public assistance on behalf of a dependent child shall be required to disclose to the division his or her current monthly income, his total income over the past 12 months, the number of dependents for whom he is providing support, the amount he or she is contributing regularly toward the support of all children for whom such assistance is provided, his current monthly living expenses and such other information as is pertinent to determining his ability to support his children. Such statement shall be filed in a manner satisfactory to the division and shall be filed annually or at such other times as shall be established by the division until such time as the child is no longer receiving assistance. Whoever knowingly fails to comply with the requirements of this section shall be guilty of a misdemeanor.

161-B:7 Repository for Information.

I. The division is authorized and directed to establish a central unit to serve as a repository of information, to answer inquiries concerning absent parents and other persons legally responsible for support, to coordinate and supervise divisional activities in relation to such persons, and to assure effective cooperation with law enforcement agencies.

II. Notwithstanding any other provision of law to the contrary, with the exception of tax statutes, and in order to effectuate the purposes of this section, the director may request cooperation from state, county and local agencies in the location of parents or other legally liable persons who have abandoned or deserted, or are failing to support a dependent child (or any other child) and information relative to the location, income and property of such parents and it shall be the duty of such persons to cooperate in responding to such requests.

III. Any records established or information collected pursuant to the provisions of this chapter shall be made avail-



able only to the director and the attorney general and their authorized designees, attorneys, and courts or agencies in other states engaged in the enforcement of support of minor children as authorized by the rules and regulations of the division, and such records and information shall be available only for purposes directly connected with the administration of this chapter.

## CHAPTER 161-C

### Alternative Method of Support Enforcement for Dependent Children General Provisions

161-C:1 Purpose. Common law and statutory procedures governing the enforcement of support for dependent children by responsible parents have not proven sufficiently effective or efficient to cope with the increasing incidence of financial dependency. It is hereby declared that the common law and statutory remedies pertaining to desertion and nonsupport of dependent children shall be augmented by additional remedies directed to the real and personal property of the responsible parents. In order to render resources more immediately available to meet the needs of dependent children, it is the purpose of this chapter to provide additional remedies for the support of dependent children, which remedies shall be in addition to, and not in lieu of, existing law. It is declared to be the public policy of this state that this chapter be construed and administered to the end that children shall be maintained from the resources of responsible parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through welfare programs.

161-B:2 Definitions. As used in this chapter, the following words shall have the following meanings unless the context clearly indicates otherwise:

I. "Court order of support" means any judgment or order for the support of dependent children issued by any court of the state of New Hampshire or another state, including an order in a final decree of divorce.

II. "Dependent child" means any natural, adoptive or step-child who is not emancipated, self-supporting or married, and who is in financial need as determined by the division or is receiving public assistance.

III. "Division" means the New Hampshire division of welfare, department of health and welfare.

IV. "Director" means the director of the New Hampshire division of welfare, or his designee or authorized representative.

V. "Disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amount required by law to be withheld.

VI. "Earnings" means compensation paid or payable for personal services whether denominated as wages, salary, commission, bonus or otherwise, and specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, and all gain derived from capital, from labor or from both combined, including profit gained through sale or conversion of capital assets but does not include payments by any department or division of the state or federal government based upon inability to work or obtain employment.

VII. "Person" means an individual, trust, estate, partnership, association, company, corporation, political subdivision of the state or instrumentality of the state.

VIII. "Public assistance" means money payments made by the state pursuant to RSA 161 or RSA 167 and any regulations promulgated thereunder.

IX. "Responsible parent" means the natural, adoptive or step-parent of a dependent child.

161-C:3 Service. Service of any notice or lien described in this subchapter may be by certified mail, return receipt requested, by service in hand as specified in civil actions or by publications as specified in civil actions.

I. Date of Service. Service shall be completed when the certified mail is received or refused or when specified in civil actions for service in hand or by publication.

II. Branch Banks. Service on any bank or other financial institution maintaining branch offices shall only be effective as to the accounts, credits or other personal property of the responsible parent in the particular branch on which service is made.

#### Support Debt

161-C:4 Creation of Support Debt. Except as otherwise provided in RSA 161-C:5, any payment of public assistance made to or for the benefit of a dependent child creates a debt due and owing to the division by any responsible parent in an amount equal to the amount of public assistance so paid.

161-C:5 Limitation of Debt. The following limitations shall apply to the debt created by RSA 161-C:4.

I. A debt shall not be incurred under RSA 161-C:4 by any responsible parent while that parent receives public assistance for the benefit of any of his or her dependent children. A debt previously incurred under RSA 161-C:4 shall not be collected from any responsible parent while that parent receives public assistance for the benefit of any of his or her dependent children.

II. When a court order of support has been issued, the debt shall be limited to the amount of the court order.

III. When a periodic support payment has been established under RSA 161-C:8 the debt shall be limited to the amount stated in the decision.

161-C:6 Subrogation. The division shall be subrogated to the right of any dependent child or children or person having the care, custody and control of said child or children to prosecute or maintain any support action or execute any administrative remedy existing under the laws of this state to obtain reimbursement of public assistance paid by the division, including, but not limited to, all remedies provided by RSA 167. If a court order of support enters judgment for an amount of support to be paid by a responsible parent, the division shall be subrogated to the debt created by such order, and said money judgment shall be deemed to be in favor of the division. This subrogation shall specifically be applicable to temporary support and maintenance orders and alimony orders up to the amount paid by the division in public assistance moneys to or for the benefit of said children on the basis of providing necessities for the caretaker of said children. The division shall not be required to seek an amendment to the court order of support in order to subrogate itself to the rights of the payee.

161-C:7 Notice of Support Debt When Court Order Exists.

I. When the division is subrogated to a court order of support under RSA 161-C:6, the director may issue to any responsible parent a notice of debt accrued or accruing under RSA 161-C:4.

II. The notice of debt shall include:

(a) A statement of the debt accrued or accruing under RSA 161-C:4;

(b) A statement of the terms of the court order, including the names of the dependent children;

(c) A statement that any property of the debtor is subject to lien and foreclosure, administrative seizure and disposition, order to withhold and deliver or other collection actions;

(d) A demand for payment of the support debt within 20 days of service of the notice of debt; and

(e) A statement that the net proceeds of any collection action will be applied to the satisfaction of the support debt.

III. Actions to collect any debt accrued or accruing under RSA 161-C:4 may commence after 20 days from the date of service of the notice of debt described in this section.

IV. If the director finds that the collection of any support debt accrued or accruing under RSA 161-C:4 is in jeopardy, the director may make demand under paragraph II for immediate payment of the support debt, and upon failure or refusal immediately to pay, the director may file and serve liens pursuant to RSA 161-C:10. No action under RSA 161-C:12, 13 and 14 may be taken until the notice requirements of paragraph II are met.

161-C:8 Notice and Determination of Financial Responsibility Where no Court Order Exists.

I. If no court order of support exists the division may, by service on the responsible parent of a notice of hearing and finding of financial responsibility and by hearing and other procedures set forth below, require a responsible parent to appear and show cause in a hearing held by the director why the finding of responsibility and/or the amount thereof is incorrect, should not be finally ordered or should be rescinded or modified. The director after hearing shall establish a periodic payment to satisfy the responsible parent's support obligation under the laws of this state, establish the debt accrued and/or accruing under RSA 161-C:4, and establish a periodic payment to satisfy that debt.

II. The director shall serve the notice of hearing and finding of financial responsibility not less than 20 days before the date of the hearing.

III. The notice shall contain:

(a) The amount the division has determined the responsible parent owes;

(b) A statement of the debt accrued and/or accruing under RSA 161-C:4 and periodic support payments in the future, all computable on the basis of the amount of the monthly public assistance payment previously paid, or need alleged and the



ability of the responsible parent to pay all or any portion of the amount so paid or being paid and/or to be paid;

(c) A statement of the periodic public assistance;

(d) A statement of the name of the recipient of public assistance and the names of the dependent children;

(e) A statement of a time and place where the responsible parent may appear for a hearing to show that the debt is not due or should be modified, and a statement of the rights at the hearing;

(f) A statement that if the responsible parent fails to appear at the hearing, the stated debt and periodic support payments in the future, as set forth in the notice, shall be assessed and enforced by collection action; and

(g) A statement that the property of the responsible parent may be subject to lien and foreclosure, administrative seizure and disposition, order to withhold and deliver or other collection actions.

#### 161-C:9 Hearings.

I. The hearing shall be conducted according to RSA 126-A:9-a and rules promulgated by the director for fair hearings. The rules shall provide at least the right to confront and cross-examine witnesses, to present witnesses, to be represented by an attorney or other person and to be notified of these rights in writing. The decision shall be limited to evidence presented at the hearing.

II. Within 20 days of the hearing, the person conducting the hearing shall enter a decision. The responsible parent shall be served with the decision. The decision shall include a statement of responsibility of the alleged responsible parent, and a statement of the periodic support payment, the amount of debt accrued and the periodic payment against the accrued debt.

III. The person conducting the hearing shall consider when deciding on the amount of periodic payment, at least the following criteria:

(a) The need of the child;

(b) The income, real property and personal property of the responsible parent;

(c) The ability of the responsible parent to borrow;

(d) The ability of the responsible parent to earn;

(e) The amount of support debt accrued and accruing;

(f) The need of the responsible parent;

(g) The responsibility of the responsible parent for other dependents;

(h) Any other standards for determination of support payments used by the superior courts of this state.

IV. If the responsible parent fails to appear at the hearing on the date specified by the notice of debt, the hearing officer shall enter a decision pursuant to this section. Within 15 days of a decision pursuant to this section the responsible parent may petition the division to vacate the decision for cause shown.

V. The decision of the division in the hearing shall establish the debt of the responsible parent. The division may collect the debt after service of the decision in the hearing without necessity of any further action by the hearings officer.

VI. A subsequent court order of support shall supersede the decision to the extent the court order of support differs from the decision.

VII. At anytime after the entry of a decision either the responsible parent or the director may petition for, a modification of the decision based on a change of circumstances. In the event of any such petition a hearing shall be held not less than 15 nor more than 30 days from the date of service of the petition, unless extended for good cause shown. Prospective modification may be ordered, but only upon a showing of good cause and material change of circumstances.

#### Collection of Support Debt

##### 161-C:10 Assertion of Lien.

I. Twenty-one days after service of the notice of debt under RSA 161-C:7, or service of the decision under RSA 161-C:9, the amount stated in the notice of debt or in the decision shall be a lien in favor of the division against all property of the responsible parent. This lien shall be separate and apart from and in addition to any other lien created by or provided for in this chapter.

II. The lien shall attach to all real and personal property of the responsible parent when the notice of debt or the decision is filed in the county in which such property is located with the registry of deeds and with the office appropriate for a notice with respect to personal property and liens against earnings.

III. Whenever the lien has been filed and there is in the possession of any person having notice of the lien any prop-

erty which may be subject to the lien, such property shall not be paid over, released, sold, transferred, encumbered or conveyed unless:

(a) A release or waiver signed by the commissioner has been delivered to the person in possession; or

(b) A determination has been made in a hearing pursuant to RSA 161-C:9 or by a court ordering release of said support lien on the basis that no debt exists or that the debt has been satisfied; or

(c) Such property is transferred or paid over to or by a person holding a prior lien on said property.

IV. The director may at any time after the filing of a support lien serve a copy of said lien upon any person in possession of earnings or deposits or balances held in any bank account of any nature which are due, owing or belonging to the debtor.

V. No lien created under this section shall have priority over any prior recorded lien.

#### 161-C:11 Exemptions.

I. Except as provided in paragraph II of this section, any property otherwise exempt from trustee process, attachment and execution shall be exempt from an order to withhold and deliver, administrative seizure and disposition, and lien and foreclosure.

II. Fifty percent of the disposable earnings of a responsible parent shall be exempt and may be disbursed to the said parent whether such earnings are paid or to be paid weekly, monthly or at other regular intervals and whether there be due the parent earnings for one week or for a longer period.

III. Any lien or order to withhold and deliver served pursuant to this chapter shall continue to operate and require any person so served to withhold the nonexempt portion of earnings at each succeeding earnings disbursements interval until the entire amount of the support debt stated in the lien or order to withhold and deliver has been withheld.

#### 161-C:12 Order to Withhold and Deliver.

I. An order to withhold and deliver property of any kind, including but not restricted to, earnings which are due, owing or belonging to a responsible parent may be served on any person when the director has reason to believe that there is in the possession of any such person property which is due, owing or belonging to the debtor.

II. The director may serve an order to withhold and deliver

when: a lien has been filed pursuant to RSA 161-C:10, or 21 days have elapsed from the date of service of a notice of debt under RSA 161-C:7 or since a decision has been served under RSA 161-C:9.

III. The order to withhold and deliver shall also be served on the responsible parent.

IV. The order to withhold and deliver shall state the amount of the support debt accrued and accruing and the terms of RSA 161-C:11 and 19 and shall demand a listing of property, including wages, which is due or belongs to the responsible parent.

V. Any person served with an order to withhold and deliver shall answer the order within 20 days of service of the order and shall make true answers to the matters inquired of therein.

VI. Any person served with an order to withhold and deliver shall withhold immediately any property, including wages, due to or belonging to the responsible parent. After 20 days from the date of service of this order and upon demand of the director, the property of the responsible parent shall be delivered forthwith to the director.

VII. If the money is due under an express or implied contract or if money is held subject to withdrawal by the responsible parent, the money shall be delivered by check, payable to the treasurer of the state.

VIII. Instead of the property of the responsible parent, the director may accept a bond conditioned upon final determination of liability.

IX. Delivery to the director of the money or other property held or claimed shall satisfy the requirement of the order to withhold and deliver. Delivery to the director shall serve as full acquittance and the state warrants and represents that it shall defend and hold harmless for such action persons withholding and/or delivering money or property to the director pursuant to this chapter from and against any and all liability against any and all liability resulting from said delivery.

161-C:13 Distrain, Seizure and Sale of Property Subject to Liens.

I. Whenever a support lien has been filed pursuant to RSA 161-C:10 the director may collect the support debt stated in said lien by the distraint, seizure and sale of the property subject to said lien. The director shall serve notice to the responsible parent and any person known to have or claim an



interest therein of the general description of the property to be sold and the time and place of said property.

II. A notice specifying the property to be sold shall be posted in at least 2 public places in the county wherein the distraint has been made. Except for good cause shown, the time of sale shall not be less than 10 nor more than 20 days from the date of posting of such notices. Said sale shall be conducted by the director or his designee who shall proceed to sell such property by parcel or by lot at a public auction, and who may set a minimum reasonable price to include the expenses of making a levy and of advertising the sale. If the amount bid for such property at the sale is not equal to the price so fixed, the director may declare such property to be purchased by the division for such price and pay off all prior mortgages and liens or may conduct another sale of such property pursuant to the provisions of this section. In the event of sale, the responsible parent's account shall be credited with the amount for which the property has been sold after pay off prior mortgages or liens. In lieu of any such sale, the seized property may be turned over to the recipient of assistance for the benefit of the dependent child involved if the director and responsible parent agree on the value of the property.

III. Property acquired by the division as herein prescribed may be sold by the director or his designee at public or private sale and the amount realized shall be placed in an appropriate state fund to the credit of the division of welfare. In all cases of sale, as aforesaid, the director shall issue a bill of sale or a deed to the purchaser and said bill of sale or deed shall be prima facie evidence of the right of the director to make such sale and conclusive evidence of the regularity of his proceeding in making the sale and shall transfer to the purchaser all right, title and interest of the debtor in said property. The proceeds of any such sale except in those cases wherein the property has been acquired by the department, shall be first applied by the director to pay off prior mortgages or liens, then to reimbursement of the costs of distraint and sale, and thereafter in satisfaction of the delinquent account. Any excess which shall thereafter remain in the hands of the director shall be refunded to the debtor.

161-C:14 Foreclosure on Liens. Whenever a support lien has been filed, an action in foreclosure of lien upon real or personal property may be brought in the superior court of the

county where real or personal property is or was located and the lien was filed and judgment shall be rendered in favor of the division for the amount due, with costs, and the court shall allow, as part of the costs, the monies paid for making and filing the claim of lien, and reasonable attorney's fees, and the court shall order any property upon which any lien provided for by this chapter is established, to be sold by the sheriff of the property county to satisfy the lien and costs. The payment of the lien, debt, costs and reasonable attorney fees, at any time before sale, shall satisfy the judgment of foreclosure. Where the net proceeds of sale upon application to the debt claimed do not satisfy the debt in full, the division shall have judgment over for any deficiency remaining unsatisfied and further, levy and sales upon other property of the judgment debtor may be made under the same execution. In all sales contemplated under this section, advertising of notice shall only be necessary for 2 weeks in a newspaper of daily circulation published in the county where said property is located, and if there be no newspaper therein, then in the most convenient newspaper having a circulation in such county. Remedies provided for herein are alternatives to remedies provided for in other sections of this chapter.

161-C:15 Redemption. Any person owning real property, or any interest in real property, against which a support lien has been filed and foreclosure instituted shall have the right to pay the amount due, together with expenses of the proceedings and reasonable attorney fees to the director and upon such payment the director shall restore said property or any interest in said property to him and all further proceedings in the said foreclosure action shall cease.

161-C:16 Release of Excess to Debtor. If any person has, subject to any order to withhold and deliver, earnings, deposits, accounts or balances in excess of the amount of the debt claimed by the division plus \$100, that person may, without liability under this subchapter, release the excess to the responsible parent.

161-C:17 Release of Lien or Order to Withhold. The director may release a support lien or order to withhold and deliver on all or part of the property of the responsible parent or return seized property without liability, if the director deems adequate an assurance of payment or if the collection of the debt will be facilitated. The release or return shall not

operate to prevent further action to collect from same or other property.

161-C:18 Adjustment of Debt Payment. The director may at any time consistent with the income, earning capacity and resources of the debtor, set or reset a level and schedule of payments to be paid upon the debt.

161-C:19 Failure to Comply with Order or Lien. Any person who fails to answer within the time prescribed or fails to deliver property pursuant to an order to withhold and deliver or after actual notice of filing of a support lien, fails to pay over, release, sell, transfer, or convey real or personal property subject to a support lien to or for the benefit of the responsible parent or any other person; or fails to surrender property under RSA 161-C:13, or fails to honor an assignment of wages presented by the director, shall be guilty of a misdemeanor.

161-C:20 Employee Protected. No employer may discharge an employee because any support lien or order to withhold and deliver has been served against the employee's earnings.

161-C:21 Assignment of Earnings.

I. Any person employing a person owing a support debt shall honor a duly executed assignment of earnings presented by the director. This requirement to honor the assignment of earnings itself shall be applicable whether the earnings are to be paid presently or in the future and shall continue in force until released in writing by the director. Payment pursuant to an assignment of earnings presented by the director shall serve as full acquittance under any contract of employment, and the state warrants that it shall defend and hold harmless any person who honors the assignment of earnings for claims arising from the action taken in honoring the assignment. The director shall not be liable for improper receipt of monies under an assignment of earnings upon return of any monies so received.

II. No employee shall be discharged by reason of any presentation of an assignment of earnings.

161-C:22 Assignment of Right of Support Enforcement.

I. The receipt of public assistance for a child shall constitute an assignment by the recipient to the division of any and all rights, title, and interest in and to support obligations owed to or for the child up to the amount of public assistance money paid for or on behalf of such child or such children,



including any support unpaid at the time of assignment as long as public assistance is paid.

II. The recipient shall also be deemed, without the necessity of signing any document, to have appointed the director as his or her attorney in fact to perform the specific act of endorsing over to the division for the support of any dependent child, any and all drafts, checks, money orders or other negotiable instruments.

161-C:23 Interest. Interest of 6 percent per annum on any support debt due and owing to the division under RSA 161-C:4 may be collected by the director. No provision of this chapter shall be construed to require the director to maintain interest balance due accounts and said interest may be waived by the director, if said waiver would facilitate the collection of the debt.

#### Proceeds

161-C:24 Distribution of Proceeds. Any money realized by the division by proceedings under this subchapter shall reduce the debt of a responsible parent under RSA 161-C:4.

161-C:25 Unidentified Funds. All fees, costs, attorney fees, interest payments and funds received by the director, unidentifiable as to the support account against which they should be credited, shall be held in an administrative expense account from which the director may make disbursement for any expenses incurred in the administration of this chapter.

161-C:26 Charging Off Uncollected Funds. Any support debt due the division from a responsible parent which the director deems uncollectible may be transferred from accounts receivable to a suspense account and cease to be accounted as an asset; provided, that at any time after 6 years from the date a support debt was incurred, the director may charge off as uncollectible any support debt upon which the director finds there is no available, practical, or lawful means by which said debt may be collected: provided further that no proceedings or action under the provisions of this chapter may be begun after expiration of said 6 year period to institute collection of a support debt. Nothing herein shall be construed to render invalid or nonactionable a support lien filed prior to the expiration of said 6 year period or an assignment of earnings or order to withhold and deliver executed prior to the expiration of said 6 year period.

161-C:25 Judicial Review. Any person who is aggrieved by any action of the director under this chapter may appeal to



the superior court for a trial de novo. The superior court shall after said de novo hearing enter such order as justice may require.

161-C:26 Rules and Regulations. The director is hereby authorized subject to RSA 541-A to make and publish such rules and regulations, not inconsistent with this chapter, as may be necessary to the efficient administration of the functions with which he is charged under this chapter.

161-C:27 Separability of Provisions. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances shall not be affected thereby.

3 Duties of the Division of Welfare. Amend RSA 161:2 by inserting after paragraph XIII the following new paragraph:

XIV. Child Support Program. Establish, direct and maintain a program of child support based on Title IV-D of the Social Security Act as amended. The director is authorized to enter into agreements with any individual, state or local agency or governmental body and may employ such assistants, including, but not limited to, persons with legal training who are not licensed attorneys, as may be necessary to carry out the purpose of this paragraph.

4 Effective Date. This act shall take effect July 1, 1979.

Sen. BRADLEY: The amendment is the entire bill, it is a big thick thing and I hope you won't ask me to explain the whole thing. This is a bill which is wanted very badly by Arthur Drake, the welfare people, the attorney general's office, and beefs up their ability to go after the runaway fathers and deadbeats. It is quite necessary, apparently, to bring our laws in line with certain federal requirements that demand of us to go after people for child support. This gives the state through the Welfare Department and the Attorney General's office, substantial new weapons and tools to collect child support payments. It allows for certain liens and orders against wages and that sort of thing. Now the reason for the extensive amendment is our council to the judicial committee went through this with the man from the attorney general's office and they hammered out a whole bunch of rather technical changes in it. I understand that Arthur Drake is happy with the changes that have been made and that the legal people are also reasonably happy. I wish I could tell you that

I am wholeheartedly behind everything that is in here but I haven't read everything in here and I think that this is one of those bills that we are going to have to let go on and go to a committee of conference and let somebody read it in the next week or so and find any problems that may be in it. Arthur Drake will die if we don't pass it.

Sen. MONIER: Senator if you remember on 502 which I had put an amendment on, your point was that here we had an important bill in front of us that nobody had a chance to read. Do you honestly feel that we should pass an amendment that has 26 pages on it that we have not have a chance to look at?

Sen. BRADLEY: Senator I think there is quite a distinction between this and the other. This is not that much change in substance from the original bill. It is a rewrite of a number of sections. Going more to procedural changes than to substantive changes. If one were up on the original bill as I can't say I am, they could go through the bill and this amendment quite quickly and find the differences and assimilate the differences. The substance of this bill has been through the regular process. It has had hearings on both sides of the aisle, a number of people are aware of it and have an interest in it, so this is not by any stretch of the imagination a stinky Pete that is going to happen without any other input or public hearings. It is just that the thing ends up being big.

Sen. TROWBRIDGE: I will repeat exactly what Senator Bradley said. That Arthur Drake is anxious for this and one thing that you should know is that 4D funds that we have in the budget, that are budgeted in for the positions of getting child support payments. We will make \$350,000 to \$400,000 a year if we out of federal funds if we pass this. If we do not pass this then these funds go through and don't come. I think for everybody concerned that this is a necessary thing whether you have read it or not. You are not going to know that much more. This is a matter of necessity.

Amendment adopted. Ordered to third reading.

HB 622, relative to the responsibility for public medical assistance. Ought to pass. Sen. McLaughlin for the committee.

Sen. McLAUGHLIN: This bill amounts to only a change in one word as requested by the division of welfare, department of health and so forth. All this is saying is that in the third line of the bill itself this individual is under 21 or is either blind or permanently disabled and so forth, before it said the word and. All they are changing is the word and to or. I recommend its passage.

Adopted. Ordered to third reading.

HB 223, requiring all lobbyists to wear a name tag when lobbying in the state house or the legislative office building. Ought to pass with amendment. Sen. Downing for the committee.

Sen. DOWNING: Mr. President the amendment merely simplifies the language of the bill and is more specific on the tag that will be worn and it also addresses a concern of a Senate committee that people just coming up to testify before a committee would have to get one of these tags. This bill says that isn't necessary. It is intended for the regular, the full-time, the professional lobbyists who are here all of the times. They have some sort of identification so that people can more readily seek them out for advice and counsel as they desire and wouldn't inhibit in any way the casual individual appearing before a particular committee. I urge you accept the committee report.

Sen. BRADLEY: Is the amendment the whole bill or is there more?

Sen. McLAUGHLIN: That is the whole bill.

Sen. BRADLEY: We already do have a requirement that they wear them. This just amends that requirement?

Sen. McLAUGHLIN: I don't think we have a requirement Senator. I think someone kind of adopted the policy.

Sen. MONIER: These name tags intrigue me, do they include representatives who are lobbying on some bills?

Sen. McLAUGHLIN: I think they have a name tag no Senator, I don't think they would switch from the black to the green.

Sen. ROCK: I don't intend to make any motion to defeat HB 223. I think it is a rather unnecessary process, I just wonder if we have to go through the whole

rigamarole that says you have to have a badge by so many inches with the name lobbyist on it and it must be green with white letters you know I suppose they will have to wear striped pants and cutaway jackets. We don't wear our badges, we have them and we don't have a law that says we have to wear our badges. And in my business I don't ask my people to do anything that I don't do. I don't wear my badge all the time. I think this could have been handled and should have been handled and more properly and certainly much less expensively than printing all the copies of this bill, printing all the amendments, a committee of conference and wasting senators time when you could have put a joint rule which said everybody that is a lobbyist wears a tag. Simple sentence, you print it once and it is done.

Sen. DOWNING: I just want to make a point. It is relatively unimportant in this chamber whether the lobbyists wear tags or not the importance seems to be in the House where they have four hundred people and they seem to feel, we made some light of it at the public hearing I might add, it wasn't one of the easiest things for a sponsor to go through. It does seem to have some importance and some significance for the House members and I just ask you to consider that in your voting. Decide on the color, but they seem to feel it is important for them to be able to readily discern who is a lobbyist and who isn't.

Sen. ROCK: Senator don't you think that all we have heard in past sessions about the high visibility of hunter orange, that what we are really interested in doing in identifying the lobbyists that the hunter orange color would be better than green because the green is often obscured if you have a green suit on.

Sen. DOWNING: I am indifferent as I said to the color.

Sen. BOSSIE: Speaking of hunter orange it reminds me of the hunter law, is there any implied consent for legislators?

Sen. Smith in the chair.

Sen. Rock moved an amendment to the committee amendment.



Amendment to the amendment adopted.

Sen. Lamontagne moved the previous question.

Adopted.

### Amendment to HB 223

Amend RSA 15:2-a as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

#### 15:2-a Name Tag.

I. Any person who is required to register as a lobbyist under RSA 15:1 shall wear on his outer garment a clearly visible name tag when lobbying in the state house or the legislative office building. Such name tag shall have white lettering on a Hunter Orange background and shall be at least 1½ inches high and 2½ inches long. This name tag shall consist of lobbyist's first and last name and the word "lobbyist" or the name of the organization represented in letters at least ¼ inch high.

II. A person whose lobbying activity is appearing to testify before a legislative committee in an open hearing session is exempt from the requirements of paragraph I.

Committee amendment (as amended) adopted. Ordered to third reading.

HB 1158, relative to the definition of a class VI highway and the status of existing class VI highways. Ought to pass with amendment. Sen. Poulsen for the committee.

Sen. POULSEN: The amendment to this bill is on page 38 of the June 9th calendar and it is very important that you have the amendment because it is completely at odds with the bill. What the amendment does is distinguish roads in a town so that they can be classified as either 5 or 6 by the people rather than by any other means. At present they can be gotten from a class 5 into a class 6 and not maintaining them. In which case no one knows that they are changing from 5 to 6. This bill asks, 90 days before the next town meeting a selectman from each

and every town and city lists all the roads that they maintain, class 5 roads, and publicly list that so it is available to the public then before the town meeting on the regularly petitioning law people who think another road should be classified that is now 6, can petition and have it put on the town warrant and at that town meeting the voters of the town vote on each of the roads, one by one, and either include them or exclude them. If they exclude them then they stay 6 and if they include them they become five. If they become five then the town must maintain them. If they stay as six they can then be voted another year time and again as the conditions in the town change. That is what the bill does. It was thought that it would be very expensive to towns, I don't see any way in which it can be, it does change the system but not greatly and it does bring it all out in the open. If you are in favor of sunshine legislature I think it is a sunshine bill.

Sen. JACOBSON: Voters at the next regular town meeting shall vote whether to designate each such highway as a class 5 highway voting separately on each highway. Now they may put in by petition apparently any road that they want to. Is this in conflict with RSA 234:1.

Sen. POULSEN: In no way. Voters can petition to have a road maintained. A road that is class 6, voters can petition to have the town maintain and be a class 5.

Sen. JACOBSON: This says that by vote of the town meeting they shall be able to designate class 5 roads. In RSA 234:1 it is the authority of the selectmen to lay out class 5 roads.

Sen. POULSEN: That is to lay out Senator, not to maintain or not to maintain that is to lay out a new road.

Sen. JACOBSON: This sentence says the voters at the next regular town meeting shall vote whether to designate each such highway as a class 5 highway.

Sen. POULSEN: That would indicate if there were a class 6 road by neglect, hadn't been maintained for twenty years and people wanted it he would have to get 10 co-signers with him to petition the town, put it on the town warrant, the town would then vote whether to

classify the road that he described as class 5 as rather than class 6.

Sen. JACOBSON: In the previous sentence it says that 10 voters may petition to warrant additional highways which in their beliefs ought to be maintained as class 5 highways. As a matter of fact we have a number of roads that have been designated as private roads and there are people living on them, they are not maintained by the town, I see nothing in this which does not preclude their entering these roads and having them designated a class 5 road.

Sen. POULSEN: Are they now maintained by the town?

Sen. JACOBSON: No. It is a question of whether you designate, and once you designate it as a class 5 highway then maintenance becomes compulsory.

Sen. POULSEN: This is addressing itself to roads that are already roads, it is not considered new roads or the layout of a road, roads that are on the ground, in place. They are not maintained by the roads, abandoned roads that are subject to gates and bars.

Sen. BRADLEY: In addition to the problem that Senator Jacobson worries about which is as I understand his problem is that anybody can petition to have any road considered by any ten which means to me that a fair number of towns are going to vote to open up some roads that are not now classified roads which is one of the problems that the press has been concerned with. I have another problem, isn't there a problem if I am now living on a class V road, I have a right to insist that the town maintain it. My road is going to get put on the warrant, the majority of 51% of the people voting can turn it into a class 6.

Sen. POULSEN: Not according to this bill, it is the other way.

Sen. BRADLEY: You look down at the bottom there, it says as I read this, the voters vote separately on each one whether to designate such as a class V highway. If they don't designate, if they vote no, because the motion is shall the Smith road be a class V and the vote is no.

The way that I read that this thing here, then that road is going to be class 6 I have lost my chance to have it maintained.

Sen. POULSEN: This is a procedure, class 5 roads that are maintained by the town are listed separately, publicly, 90 days before the town meeting by the selectmen. Your road would obviously be on that list. They are maintaining it, they know that. The road is maintained up to the end by David Bradley, the bill only addresses changing six into 5 not five into six.

Sen. BRADLEY: The last full sentence on the page says the voters at the next regular town meeting shall vote whether to designate each such highway as a class V highway. It also says above that that the selectmen shall place on the warrant a list of all existing class 5 highways.

Sen. POULSEN: And your's would be on it.

Sen. BRADLEY: A couple of sentences further it says, the voters vote whether to designate that as a class 5.

Sen. POULSEN: That refers to the class 6's that the petitioners are bringing in.

Sen. KEENEY: I think I have two related questions. Under your amendment, if the town meeting does vote to designate a class 6 as a class 5 highway, in most instances I think it would have to be brought up to grade before it could be so maintained. Is that your understanding?

Sen. POULSEN: As I understand the law Senator Keeney the new road would have to be brought up.

Sen. KEENEY: In a town which has subdivision ordinances which would require a class 5 road to be the 50 foot width and so forth, brought up to grade, in instances where the property was still open and the possibilities of subdivisions coming in, would the town be limited from making agreements with subdividers as to the responsibilities of the cost of bringing these roads up to the standard of their subdivision ordinances?

Sen. POULSEN: If I were the selectman in that town you can be very sure that I would try to make some such arrangement.



Sen. KEENEY: In cases where roads which have been discontinued subject to gates and bars and on which the selectmen have already made agreements with one or two persons that they may use it and they may maintain it to the use that they need, is this going to now override those previous agreements.

Sen. POULSEN: I don't think it would supersede any agreements that have been made.

Sen. KEENEY: But you think if the town did vote to change a class 6 that was subject to gates and bars and which the selectmen had made an agreement with individuals to maintain themselves, if the town voted then that agreement would be voided?

Sen. POULSEN: I think it might have to be voided but I think the town would rather go along if the agreement they already had didn't cost them anything. I think they could be forced to maintain it.

Sen. HEALY: Senator is it not true that a class 6 highway was once a class 5 that the town has either abandoned or subject to some closure? So that at one time back in the years, the selectmen of the town had laid out a regular highway of the town, and maintained it up until they either subjected it to gates and bars or abandonment?

Sen. POULSEN: Senator that is perfectly right and in many towns there is a record of that. There is a record of a survey, it could be a semi line, it could be two sidelines but they were in many towns laid out quite well with bounds, distances and barriers and reference points so that the road is definitely located in many towns where it is on the ground.

Sen. HEALY: To carry along with that same line of discourse, where it was laid out isn't it true that many of the towns had a deed of that land?

Sen. POULSEN: Absolutely. They took it one way or the other. By gift or by purchase.

Sen. TROWBRIDGE: One thing you said here I don't think can be true. If an old road was there and it was legally abandoned by the town and it reverted to the owners or the abutters, at that time that thing could not

be brought back into existence by a town meeting. That road is gone. It is only roads that are subject to gates and bars or some agreement that we are talking about. If there were an agreement and all that it would be unlikely that the town meeting would vote to maintain the road if they have a way of going along.

Sen. MONIER: I have had several phone calls on this. It was on the original bill. The thing that really disturbs me about it is that now I have a bill that I don't understand at all. I worry about it because I know what the original bill would have done. Is there a way, in my position where I have had my selectmen from four different towns and said for heavens sakes, don't pass that bill. If you were in my position, what would you do with this amendment. Would you allow me to pass it or would you say to me it would be better to have it do something else, interim study or otherwise.

Sen. POULSEN: It would depend on my connection with the selectmen Senator Monier. Actually Senator, I don't think the bill hurts any town.

Sen. Monier moved that HB 1158 be referred to interim study to the committee on Transportation.

Sen. MONIER: I tried to indicate to Senator Poulsen and I'll be very brief about it. The old bill as I had seen it as it stood before, I was going to move indefinite postponement on it. The answer to the amendment that I see here is that I really don't know what to do with it. I have heard enough questions about it and I see enough definitions in here and enough different loopholes and enough different votes and efforts to the selectmen and each of the towns involved such as they must put together all of the existing highways so that someone would know what to vote on in the first place. And one place that I think I read it, to the effect that if it was not voted on it automatically reverts to a particular thing, I think this kind of thing coming in at the last minute as we have been saying before deserves something besides a vote on it. I suggest interim study.

Sen. POULSEN: Mr. President I rise in opposition to the motion, having just passed something that looked like 40 or 50 pages as an amendment, while this amendment is a great deal smaller, doesn't seem to me like very good logic.

Sen. JACOBSON: Mr. President I rise in support of the motion as offered by Senator Monier. As a selectman I recognize that if this were to be enacted in law at a potential cost to the towns may be enormous in terms of updating the class 6 roads. Furthermore I recognize it as a very serious problem with regards to getting every class 5 road into the warrant. If we are going to put them into the warrant they have to be there for some voting purpose. Otherwise there is no purpose in placing them into the warrant. That would raise to me a very complicated question as to the meaning the phraseology that follows thereafter. So I think this is a very complex question. I know that the New Hampshire Municipal Association has spoken to me about it and they are deeply concerned about it so that, and we don't know what the consequences of this are. Furthermore there are already on the statutes existing processes available to a town to do the very same thing that this purports to do. For example in the town of New London we had a class 6 road in which it was decided that by town vote that maintenance would be applied to it and we did apply maintenance, it cost us over \$30,000. That is only one of those town roads and some of those towns, particularly north of Concord, have many of these roads. It is going to be a very serious question and I doubt whether we actually do need the bill because the processes are already available on the statutes.

Sen. LAMONTAGNE: Mr. President what Senator Jacobson has just been saying, when he said that there were funds that were spent on class 6 highways, it had to be a vote and you had to put it on the warrant. You couldn't do it without spending any money without having it on the warrant. The way that the amendment reads, I per-

sonally feel that the amendment is what really has changed the bill completely. I don't see anything wrong with the way that the amendment is prepared for you.

Sen. SANBORN: Senator I am interested in your remarks about New London. Doesn't the selectmen of the town know where all the class 5 highways are in the town of New London?

Sen. JACOBSON: As far as I know at least this selectman knows where they all are. And also the class 6.

Sen. SANBORN: Then what is the problem?

Sen. JACOBSON: I don't know of a problem.

Sen. Lamontagne moved the previous question.

Adopted.

Sen. Hancock requested a roll call. Seconded by Sen. Gardner.

The following senators voted yea: Gardner, Bradley, Jacobson, Saggiotes, Monier, Blaisdell, Rock, McLaughlin, Keeney, Sanborn, Provost, Brown, Bossie, Preston.

The following senators voted nay: Lamontagne, Poulsen, Bergeron, Trowbridge, Hancock, Healy, Fennelly, Downing.

14 yeas    8 nays

Adopted.

Sen. Rock moved that HB 643 be taken from the table.

Sen. Rock requested a roll call. Seconded by Sen. Trowbridge.

The following Senators voted yea: Lamontagne, Poulsen, Bergeron, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Healy, Sanborn, Provost, Bossie, Downing, Preston.

The following Senators voted nay: Gardner, Bradley, Jacobson, Saggiotes, Monier, Blaisdell, Brown.



14 yeas 7 nays

Adopted.

HB 643, relative to the qualifications for licensing of chiropractors.

Question of interim study.

### SUSPENSION OF THE RULES

Sen. Rock moved that the rules of the Senate be so far suspended as to limit debate on HB 643, any amendments or resolutions thereto to a 20 minute total.

Sen. ROCK: I make this motion and I do so in the hopes and I will preface by saying if this bill fails I'll support Senator Jacobson's resolution, we have been through this, we have been lobbied on it, I think we all understand it, I am willing to be brief and I hope the senate will be brief.

Sen. BLAISDELL: Senator you wouldn't amend that to 3 minutes apiece would you?

Sen. ROCK: I'd amend it to 3.

Sen. JACOBSON: Mr. President I rise in opposition to this proposed motion, not because I want to have the debate limited but because this in fact infringes upon the rules of the Senate already established. If you want to have that by 2/3'rds vote then the motion should be to suspend the rules so as to limit debate to 20 minutes. I think that that kind of a motion is not in order, we did not have any notice about it and I think we ought to be very careful about limiting debate of the members of the Senate. It may be we only require 2 minutes to finish the question off. We already have a motion that can be accepted by a majority vote to limit debate on recognition. So we can cut it off at 20 minutes but to establish 20 minutes I think is in violation of the rules of the Senate.

The CHAIR: The chair would state that the motion of Senator Rock is out of order as stated but that he may

make the motion to suspend the rules of the Senate to allow for a limited 20 minute debate.

Sen. ROCK: I would amend my motion Mr. President to read that the rules of the Senate to be so far suspended so that we may proceed in an orderly fashion with the 40 bills that are on the table by limiting debate to 20 minutes on this issue.

Sen. ROCK: I rise in opposition to the pending motion. I would support a motion of ought to pass, I hope this motion will be defeated.

Sen. JACOBSON: As members of the Senate recognize Senator Bradley and I introduced a resolution, the effect of the resolution would be to get the two sides together, the straight and the mixed, and have them knock heads to gether and come out with a position in which all sides can live. This is what we did when we had the CPA and the public accountants. And I remember distinctly the form of Representative Sumner Raymond, he spent a great deal of time knocking heads together on those two groups and brought them together and we got a bill that both sides could live with. I think this is the way that we ought to go on this because there is real problems on both sides of the issue and I hope that we don't do anything with HB 643 and that we do go ahead with the resolution and get them together and come out with a bill in which all sides can live.

Sen. SAGGIOTES: If I wish to withdraw my motion for referral to interim study to support the resolution of Senators Bradley and Jacobson, would I withdraw my motion and substitute these resolutions.

The CHAIR: The chair states that that can be done. The bill could be laid on the table while the resolution was taken up.

Sen. MONIER: Senator in following up the question of Senator Saggiotes we currently have before us a resolution to put this bill to interim study. If I wanted to support your resolution, would it not be smart for me to pass that motion of interim study and then support your resolution.

Sen. JACOBSON: That would be one way of doing it

and we would then have the resolution follow and the other way of doing it would be to lay it on the table again and adopt the resolution.

Sen. McLAUGHLIN: Several years ago I tried this, to put people together being chairman of that committee, with both sides, and I had very good response back from the mixers and very poor response back from the straights. They would not cooperate in any way, shape or manner. I therefore recommend that this bill pass tonight.

Sen. BRADLEY: Were these people reminded that they have no inherent right to practice their profession in this state and perhaps unless they do get together we might change the law and outlaw all chiropractics?

Sen. McLAUGHLIN: I think all people, whether straights or mixed, are still allowed to practice.

Sen. BRADLEY: That isn't my point, my point is that if they don't get together were they told that the legislature might and does have the power to do away with both mixes and straights.

Sen. JACOBSON: I presume that the committee that is going to study this is going to be the committee on public institutions under the chairmanship of Senator McLaughlin and that each of the groups are going to appoint three representatives. It says a special committee but I will say that that is the special committee.

The Chair will state that we did away with chiropractors in 8 minutes.

Adopted.

Division vote: 12 Senators voted yea; 9 Senators voted nay.

Motion of Interim study adopted.

Sen. Jacobson introduced a Senate Resolution.

#### Senate Resolution No. 6

concerning the resolution of differences between the schools of chiropractic.

Whereas, the Senate is unable to resolve the differences which exist between the "straight" and "mixer" schools of chiropractic, in connection with our consideration of House Bill 643; now, therefor, be it

Resolved by the Senate:

That each of the groups should appoint not more than 3 representatives to meet and confer with a special committee to be appointed by the President of the Senate, so that these groups might resolve their differences between themselves, which is a prerequisite to formulating appropriate legislation to present to the next session of the General Court.

Adopted.

Recess.

Out of Recess.

Sen. Monier moved to recall HB 1104 from the Governor's office.

Adopted.

Sen. Monier moved that HB 1104 be placed on third then second reading at the present time.

Adopted.

HB 1104, changing the penalty for failure to file user of fuel reports with the road toll section.

Sen. For everybody's information, the act is changing the penalty for failure to file user of fuel reports with the road toll section. The reason for the recall is that there is a typographical error in it or there is a mistake in it, it is only on one page, the director in his discretion for good cause shown may abate any toll so that. It should have read, that he may abate, the intent was he could abate any penalty, not the toll. As a result it is just not reading properly and the Governor has asked rather than veto it and send it back to us, would we vote for recall so we could change that one word. I move that we do recall on the basis given.



Sen. Monier moved that HB 1104 be laid on the table.  
Adopted.

Sen. Lamontagne moved reconsideration on HB 1083.  
Division vote: 13 Senators voted yea; 7 Senators voted nay.  
Adopted.

Sen. Lamontagne moved that HB 1083 be placed on third then second reading at the present time.  
Adopted.

HB 1083, relative to time-of-day electric utility rates.

Sen. Lamontagne offered an amendment to HB 1083.

#### Floor Amendment to HB 1083

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Electric Utilities. Optional Time-of-Use Rates. Amend RSA 378 by inserting after section 7 the following new subdivision;

##### Electric Utility Rates

378:7-a Filing of Time-of-Use Rates. In order to conserve electricity and discourage excessive consumption of electricity, every public utility selling electricity to electric customers shall file with the commission and make available at the customer's option a time-of-use rate or rates based on costs to the utility to be determined according to the provisions of RSA 378:7-b and that can be designed for such customers using existing meters. In addition, every public utility selling electricity to electric customers shall file with the commission and make available a time-of-day rate or rates based on costs to the utility to be determined according to the provisions of RSA 378:7-b and designed for application to such customers at customer's option. Nothing herein shall be deemed to preclude the filing of other time-of-use or time-of-day rates by such public utility.

378:7-b Time-of-Use and Time-of-Day Rates Defined. Optional time-of-use rates prescribed by RSA 378:7-a shall reflect the costs at different times of the year. Optional time-of-day rates prescribed by RSA 378:7-a shall reflect costs at different hours of the day and different days of the week. All such time-of-use and time-of-day rates shall be approved by the commission prior to being implemented.

378:7-c Electric Customer Defined. The term electric customer means any customer to which electric energy is sold for purposes other than for resale.

2 Effective Date. This act shall take effect July 1, 1978.

Sen. LAMONTAGNE: Mr. President, I would like to offer the following amendment to HB 1083. I assume that every member of the Senate has a copy because it was passed three days ago and I think we have some more copies if we need them. This amendment provides a time-of-use and to make it optional, the way that the time-of-day rates are, especially in the north country they could be forced to pay more because of their heavy winter use. At the same time I would like to have you refer back to page 9. This is the journal of June 2nd and if you take a look at the title of the bill, in section 1 you will see electric utility optional time-of-use rates, amend RSA 378 by inserting after section 7. The only thing that I am doing in the amendment is adding the way the title reads. That is optional for the time-of-use of rates. It is the only thing that is added into the amendment.

Sen. PROVOST: Senator Lamontagne, once you have made a decision to take time if you find you have made a wrong decision?

Sen. LAMONTAGNE: If you were doubtful about this amendment here it would be optional and you would be able to do what you want to do. Right now the way the title of the bill reads, it is marked as optional but if you read the bill it doesn't say optional within the bill. So what I have done is added optional in it in the same manner that the title of the bill does say.

Sen. BOSSIE: Mr. President I rise in opposition to the motion by the Senator from Berlin. Now the first part of

the amendment is basically the same as the bill that we passed. After we had passed it I heard from several people who were very dissatisfied with the last part 378:7-b as to time of use. Now this is very complicated stuff. There is a difference of opinion among individuals as to whether the provision by Senator Lamontagne will actually save or hurt industry. Industry at the Brown Company thinks that they will be hurt unless this is the way that it will be and others like consumers in private residents, think otherwise. I am no expert either but I like the way that the bill passed and it had substantially what the good Senator has but I think I would hope that it would go to a committee of conference and that we could hash it out as to what all these technical things do mean and I know Senator Fennelly is our expert here but I would prefer to leave it the way it is, send it over to the House and hopefully we will have a committee of conference on it.

Sen. POULSEN: Senator Bossie if that is the case that this is detrimental to industry, how do you account that Brown Company and Groveton have both called me and wanted the bill this way. Are they mistaken?

Sen. BOSSIE: I don't know it is conceivable they could be or that they could be entirely correct. I guess the preferable way and the way that I suggested to one of the lobbyists in the hallway, was that it be optional for the manufacturers in industry and mandatory for our private residents. I thought that it was how it was going to come out but it didn't and it is a problem. This amendment is not going to clean it up either.

Sen. PRESTON: Senator Lamontagne the optional rates, this decision is made by the customer, it is an option of the customer not the company?

Sen. LAMONTAGNE: The customers are going to be affected especially up north because as you know up there in the north country the winter months are a lot longer than they are in the southern part of the state. So my people are the ones that are going to get hurt.

Sen. PRESTON: I am not arguing that Senator, my question is I am confused on the optional part of it. Is it

the option of the customer, whether it is Brown Company or you or me, as to whether or not.

Sen. LAMONTAGNE: This is optional to the customer who could be the Brown Company or it could be a user.

Sen. PRESTON: It is not optional on the part of the electric utility it is optional on the part of the customer?

Sen. LAMONTAGNE: The reason is because as I have said the people up north are having more of winter months than they do in the southern part of the State and, therefore, my people are getting hurt. And we are talking about little people.

Sen. PRESTON: Is that the change in the bill, is that what you indicated Senator?

Sen. LAMONTAGNE: That is the only change there is.

Sen. BRADLEY: Senator Bossie is this matter going to a conference committee anyway?

Sen. BOSSIE: I don't know. I can't tell you.

Sen. BRADLEY: There was already an amendment put on by the Senate.

Sen. BOSSIE: Yes in which we thought at that time that everybody agreed to. It was drawn up by some professor from Dartmouth who had done a rape study, we had all the parties together. After it was all over and we passed it the lobbyists for Brown Company got me in the halls and said gee, this isn't what we want. We talked and tried to reconcile it somehow. These people have a lot of good in and yes, it is a very difficult, technical thing.

Sen. BROWN: A gentlemen from the electric company said that they were experimenting along this line and also this professor from Dartmouth also stated that this was going on and was cognizant of it, and didn't they both say that it was in an experimental stage and an option as far as the customer was concerned?

Sen. BOSSIE: They agreed with the bill the way it passed in the first place and they would disagree with the bill as it would come as provided by the amendment.

Amendment adopted. Ordered to third reading.



Sen. Bossie moved that HB 370 be taken from the table.

Division vote: 17 Senators voted yea; 4 Senators voted nay.

Adopted.

HB 370, relative to salaries of full-time justices of district courts.

Sen. Bossie moved an amendment to HB 370.

#### Floor Amendment to HB 370

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Salaries of Justices. Amend RSA 502-A:6, I (supp) as inserted by 1963, 331:1 as amended by striking out said section and inserting in place thereof the following:

I. SALARIES OF JUSTICES. The cities and towns in which the district courts are regularly located shall annually appropriate and pay the justices of the district courts salaries computed in the following manner: for the first 1,500 cases, \$400 for each 100 cases or fraction thereof; for the next 1,000 cases, \$300 for each 100 cases or fraction thereof; and for all cases over 2,500, \$150 for each 100 cases or fraction thereof provided that the sum of \$500 be added to the salary of each justice of a district court which has exclusive civil jurisdiction in cases where the damages do not exceed \$500. No justice shall be paid a salary less than a sum equal to \$180 for each 1,000 persons residing in the district, as reported in the last federal census. If application of the formula in this paragraph results in a salary that prohibits a justice from engaging in the practice of law pursuant to RSA 502-A:21, the salary of said justice shall be determined by the use of such formula but in no case shall the justice receive an annual salary of less than \$25,000 nor more than \$32,300. The total cases reported annually from each district court to the judicial council shall be used in the computation of the salary of each justice as provided herein. The administrative committee of the district and municipal courts shall compute the salaries as

provided in this section and shall annually, in November, notify the local governing body of each city or town in which each district court is regularly located the amount to be paid the justice, special justice and clerk for the next calendar year.

Sen. BOSSIE: Mr. President, as you know this bill passed and went on to the Governor's office. He had some objections to the tying it on to 95% of the judge's salary and I understand now why now that I see the judge's salary increases. So what it is is take out the 95% and puts in the actual amount which is \$32,300. We ask that you vote for it, sounds like a good bill, and it would apply to 5 different judges.

Amendment adopted. Ordered to third reading.

### RECONSIDERATION

Sen. Provost moved to reconsider our action whereby we concurred with the House amendment to **SB 334**.

Division vote: 11 Senators voted yea; 10 Senators voted nay.

Adopted.

**SB 334**, relative to the transfer of the Manchester and Nashua policemen to the New Hampshire retirement system and making an appropriation therefor.

Sen. Provost moved that the senate non-concur in the amendment and set up a committee of conference.

Sen. PROVOST: This is the Manchester police retirement fund. The actuary has met with the state actuary and developed a revised actuary figure and they believe that they would be better if we put in those figures and it would cost less for Manchester and Nashua if we had a committee of conference.

Sen. TROWBRIDGE: I am not going to speak against Senator Provost but I want you to know what has hap-

pened here. The bill says that there shall be agreement between the actuaries of the cities and the George Butt company which is the actuary for the state. As to the appropriated amounts in each time. As you remember Manchester is going to pick up the bill up to 1967, from 1967 the state is going to pick up their share. The bill is gauged and written so that that agreement has to be reached. There is no figure in the bill at the present time. In the House amendment and that is why I, as chairman of this committee said we ought to concur with the House amendment because it lets the mechanism work where they come to agreement as to what the dollar amounts are going to be between Manchester on the one hand and the state on the other. Now Mr. Akeris has called and has said we think we have come to agreement. That is what the bill says that they should do. I wonder if we aren't falling into a somewhat trap here of trying to get engineered into the bill an actual figure which we have left out of the bill. I think Senator Provost when you come down the line it is going to be a lot better if we do not put a figure in but have agreed as to the method of division of responsibility. So I just want to point that out. I think we did the right thing to concur.

Sen. PROVOST: Wasn't there a figure agreed that Manchester and Nashua pay \$1.7 and the state paid a million?

Sen. TROWBRIDGE: And then the House amended the bill saying no, we are not going to put any figure in, we are going to go with what is agreed between the actuaries and that we pick up the unfunded accrual only from 67 on, the formula that we had, and that all the mechanism is there for agreement.

Sen. PROVOST: I understand that the House put back the figures.

Sen. TROWBRIDGE: No. The House amendment that I saw today has no figures in it at all. That is why we concurred because I heard that there was agreement coming between them as to the amounts and that is exactly what we want to have happen. I don't mind if we go back and have a committee of conference but I want to

warn you that then there is going to be a lot of hemming and hawing and we will be back with they want to pay \$110,000 and we say a \$1.7 and we are going to have to resolve that on a professional basis.

Adopted.

The chair appointed Sens. Sanborn, Provost and Rock.

Sen. Downing moved that HB 455 be taken from the table.  
Adopted.

HB 455, providing for a special decal on motor vehicle number plates for a person with a walking disability.

Sen. Lamontagne moved an amendment to HB 455.

#### Amendment to HB 455

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

relative to a special decal on motor vehicle number plates for a person with a walking disability.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Duration of Decal. Amend RSA 260:18-a, I (supp) by striking out said paragraph and inserting in place thereof the following:

I. The director shall furnish without charge for every motor vehicle owned by a person with a walking disability who furnishes satisfactory proof of such disability to said director and who has an operator's license to operate said vehicle, a decal using the international accessibility symbol. The size of the decal shall be the same size as a registration decal and shall be placed in the lower right hand corner of the number plate. The decal shall be valid for as long as the number plate to which it is affixed shall be issued to the person with such disability.



2 Effective Date. This act shall take effect 60 days after its passage.

Sen. DOWNING: 455 and SB 31 were quite similar and we had another bill also from Senator Lamontagne relative to a decal for the handicapped. This amendment here addresses a point that hadn't been addressed before. It is very, very significant. It merely says that once the decal is issued that that decal is good for the life of that plate and you don't have to get it replaced every year. If you get a plate you keep for five years, the decal is good for the five years, you don't have to reapply for it. I think it would be a great convenience to the users of the decal and Senator Lamontagne's idea and I urge you support the amendment.

Sen. HANCOCK: Mr. President and members of the Senate, I heartily support that amendment. As I said earlier it has been quite a cost to many of the handicapped who every year have to go to a doctor to get a certificate to prove that he or she was disabled. So I think this is a fine improvement and I hope you will vote for it.

Sen. LAMONTAGNE: I rise in support of the amendment that Senator Downing has proposed which happens to be my amendment too. I was a little confused because I had two amendments for HB 455 so we'll disregard one of them and we'll take the one that Senator Downing has already come up with. I am sure that this will meet with the honorable senator Hancock and I am sure that it has been said by me that the senate bill that I had introduced, took care of the walking disability. After looking over the bill I found that it did not do what I told you it would do. This will do it.

Amendment adopted. Ordered to third reading.

Sen. Bradley moved that HB 586 be taken from the table.

Sen. BRADLEY: The amendment simply changes one of the exceptions. It expands one of the exceptions for the owners own property. The amendment has changed it to read: to an owner who repairs or replaces plumbing in his own residence or an owner or his agent who makes minor repairs and replacements to property owned by him. This expanded the present exception in the committee amendment to make it clear that the owner could have his own agent, or could hire someone to make minor repairs and it made it clear that the owner could do any kind of replacement or repair in his own home. A slight expansion of what you can do to your own property and it takes care of the situation that Senator Preston asked about where people have a caretaker check their property and he could fix the leaky faucet and that sort of thing.

Sen. ROCK: Senator would you delineate for me what I would be precluded from doing in repairing the plumbing in my own house?

Sen. BRADLEY: You would not be precluded from doing anything in your own house if it is repair or replacement. Somewhere, someone has to draw a line between what is repair and replacement and what is installation. I think basically you could do that. You couldn't put in new pipes and run a new fixture but if your john breaks down and you want to try to fix it you can do it. Even if it involves taking it up and all that.

Sen. ROCK: If I now wish to install for my present cold water pipe, an outdoor tap so that I can water my garden, am I precluded from making that installation if it does not now exist in my own house?

Sen. BRADLEY: I would say on close reading of the bill, yes. I think the bill requires a plumber for any installation and as far as this goes is repair and replacement.

Sen. ROCK: If I wish to install a new washer in my sink wherein there is no washer now, is that considered an installation?

Sen. BRADLEY: That sort of thing you can do.

Sen. ROCK: May I sweat a joint if it is not now there?

Sen. BRADLEY: That refers to a plumbing technique.

Sen. ROCK: Well I am not a plumber but I know what it means to sweat a joint, so can I?

Sen. BRADLEY: I guess I don't know enough of what that involves.

Sen. ROCK: Let me explain Senator. In my basement I have a lot of copper pipes that run across the ceilings. A long time ago my father-in-law who knew a lot about these things said, son, if you are ever going to save any money you are going to have to learn how to sweat a joint. This means taking a hacksaw and cutting the pipe in half, inserting in the pipe a T after you clean and flux the joints and using my Burns-o-matic, 98c torch I sweat a joint so that I can have a faucet in my basement where I don't now have one. If I made an installation that would be illegal under your bill?

Sen. BRADLEY: Good question and it is probably a close question. I would think that there is an argument that that is an installation although as a practical matter no one is going to object. Let me follow this up by saying it is not my bill. My attempt here by this amendment is to make the home owners exceptions broad. If I haven't made it broad enough I would be happy to make it broader. That is my interest in this bill.

Sen. ROCK: Would you then Senator if I have raised any doubt in your mind and I think that you know that I am not a plumber, like Senator Jacobson is not a judge, I do feel that keeping in mind the safety of my family and my need to have a safe home and to do the job properly I can sweat a joint that is not now there, would you now agree that maybe we should make an amendment to this bill that says as a homeowner, I can make any installation or repair necessary in my home?

Sen. BRADLEY: I would support that.

Sen. SAGGIOTES: Senator Bradley, in the bill, are there two different types of licenses, a master's license and an apprentice license?

Sen. BRADLEY: I believe there is. I have no broad interest in the bill, my interest is in getting this exception in so I don't want to hold myself out as an expert on the bill. But I'll try to respond to any questions.

Sen. SAGGIOTES: Senator Bradley, I recall when we passed the licensing bill for the electricians and the board ruled that a person who owns his own electrician's business who was the sole participant in the business had to have both the journeyman's license and the master's license. Does this hold true in the plumber's bill?

Sen. BRADLEY: I would have to defer to Senator Brown to answer that question.

Sen. BROWN: If you do work and employ people you have to have one license, that is the master's license. If he is going to do work on his own while employing people then he has to have a journeyman's license. The fee for the journeyman's license is \$15.00 and the fee for the master's license is \$25.00. If you recall, in the electrical bill in which you speak we had problems along this line. This I believe Senator will not create those problems we had because this distinctly states in relation to his employment, who he employed, the license that he has versus the journeyman's license.

Sen. BERGERON: Just for my own edification, if a person is a sole owner and sole worker in his company, he will only need a journeyman's license?

Sen. BROWN: If he does not hire other plumbers that have to have a journeyman's license.

Sen. BERGERON: This is for the record. If he hires one other person to work under him, and he also does work himself is he going to need a journeyman's license and a master's license as well?

Sen. BROWN: No. If the man works under a master, if he works with the master, he is a helper and he doesn't need a license but if that man is employed by this man then he goes out and does a job without the master then he needs a journeyman's license.

Sen. LAMONTAGNE: Senator Bradley what happens in a case when homemakers get together some time, and suppose I wanted my neighbor to come over and help me with my pipe, would I be able to go ahead and do that job with my neighbor?

Sen. BRADLEY: If it is a minor repair or replacement you could under my bill. You could have anybody you



choose to make minor repairs and replacements. If we want to take a minute on this, I would like to amend this amendment further to make it clear that the owner could install anything in his own residence and that he could make minor installations in any other property owned by him or he could get his neighbor, friend or father-in-law. I would like to try and broaden this further. Again, my interest in this bill is to make the owner's exceptions as broad as reasonable. I am not a proponent necessarily of this licensing bill.

Sen. LAMONTAGNE: Do you realize that the way this is proposed now, that my neighbor could not help me?

Sen. BRADLEY: My amendment is broader than the bill that is brought in. My bill would allow the neighbor to make minor repairs and replacements which was not possible under the original bill.

Sen. LAMONTAGNE: Now the amendment that you want to propose, could I do my own work and be able to get a neighbor to help me?

Sen. BRADLEY: On your own residence, you could do whatever you wanted to, that is what I want to propose.

Sen. GARDNER: Senator Brown, how does this affect the oil man installing hearing systems?

Sen. BROWN: They are exempt Senator Gardner.

Sen. GARDNER: Do they need a license?

Sen. BROWN: They do not need a plumber's license to install a heating system in the home, they are exempted.

Adopted.

HB 586, to provide for the licensing and regulation of plumbers and making an appropriation therefor.

Question of the committee amendment.

## Amendment to HB 586

Amend RSA 329-A:3 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

329-A:3 Board; Appointments; Terms. A state board for the licensing and regulation of plumbers is hereby created. The board shall consist of 5 members, one of whom shall be the executive director of the New Hampshire water supply and pollution control commission or his designee. The other 4 members, one of whom shall be a master plumber, one of whom shall be a journeyman plumber and 2 of whom shall be members of the public to represent the consumer, shall be appointed by the governor, with the advice and consent of the council, and each shall hold office for a term of 5 years and until his successor shall be appointed and qualified; provided that the original appointments shall be as follows: one consumer representative for a one year term, one consumer representative for a 2 year term, the journeyman plumber for a 3 year term, and the master plumber for a 4 year term. Appointments to fill vacancies shall be for the unexpired term. The governor and council may remove any member of the board for good cause.

Amend RSA 329-A:10, III as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

III. The board shall, without examination and upon payment of a fee of \$25 in the case of a master plumber or \$15 in the case of a journeyman plumber, issue a license as a master or journeyman plumber to any applicant who shall present satisfactory notarized evidence that he has the qualifications of such plumber and has engaged in the business of plumbing within the state for at least 2 years, and who derives his livelihood or primary source of income from plumbing.

Amend RSA 329-A:13 as inserted by section 1 of the bill by inserting after paragraph IV the following:

V. To persons engaged in the installation of any heating, cooling, air conditioning or domestic water heating systems, whether solar, oil, gas or electric, and persons engaged in the installation and servicing of water softeners or swimming pools.

Amend RSA 329-A:14 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

329-A:14 Regulations. The board shall promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter, but the board shall not regulate the number of apprentices in relation to the number of journeymen.

Amendment adopted.

Sen. Bradley moved an amendment to HB 586.

Sen. Bradley moved to lay HB 586 on the table.

Adopted.

Sen. Smith moved that HB 1006 be taken from the table.

Sen. SMITH: Mr. President, we have had discussion on this bill before but basically what this bill does is to establish the Merrimack Valley Branch as the fourth branch of the University rather than a department of the Durham campus. It gives it independence. Today we voted for a second building in the capital budget, the need has been demonstrated for the Merrimack Valley Branch and there is strong support for it. The number of students is increasing and it serves a particular need for the students at the Manchester area. It dovetails with the programs of the private colleges in the area as Senator Rock so eloquently stated today. I would like to read a comment from the New Hampshire College and University Council which is composed of Mount St. Mary's College, New England college, Notre Dame, Plymouth State College, Rivier college, St. Anslem college, University of New Hampshire, Franklin Pierce college, Keene State college,

Colby-Sawyer college, Franconia college, New Hampshire college and Nathaniel Hawthorne college. It is signed by Henry Munroe as Executive Director. Because of a meeting of the council I was not able to be present to testify in support of HB 1006 a bill making the Merrimack Valley Branch of the University of New Hampshire, an independent institution. On April 27th I testified before the House subcommittee that the presidents of the member institutions of the New Hampshire college and University Council, did support the establishment of a Branch as a separate institution. Several of the private Manchester colleges participated in cooperative exchange programs in the Branch and look forward to an expansion of activities as the Branch seeks to change its own directions as the newest member of the University System. Dr. Roger Bernard, the dean of the Branch, not only participates in council programs but serves on one of the advisory boards on one of the areas private colleges. I think that it is clear that the University will be enhanced by this, that the students in the Manchester area will be appreciative of it, and that this will be a more feasible operation so that it can operate its own branch, develop programs in conjunction with the colleges in the Manchester area and be a legitimate fourth Branch. I hope the Senate will go along with the passage of the bill.

Sen. HEALY: Mr. Chairman I rise in strong support of Senator Smith's proposal, his suggestion that this become an independent educational school. We all know that greater Manchester is growing rapidly, it is growing right down into Nashua. Sooner or later it is going to be right at Nashua and even down route 28 into Salem. Sooner or later it is going to be the great metropolis of the whole state and there is no question about it. It has been forecasted, predicted, there have been news stories about it, even Londonderry is going to be a bigger city than Manchester. Londonderry is growing with tremendous strides. Now there are great many young people, especially working people, going to the evening classes of this college. They are advancing their education and showing a great deal of interest in education in Manchester believe



it or not which is very much of an industrial community right now. Also it is becoming a strong educational area. As he pointed out, the number of colleges in greater Manchester is tremendous of late. All these people working today, all these youngsters are educated and they want to be even though they work in factories and mills and gasoline stations, whatever it is, they are strongly interested in education and the only way to find that out is to talk with them and you'll find out that the guy drinking beer in the back room of the Puritan is a pretty intelligent guy today. Quite a few of them are going to these night classes. Now for a time before this Merrimack branch was established they were using the high schools, Memorial high school was used every night. Central high school had been used and they were even going to the Manchester institute of arts and sciences and other places to conduct classes for adult citizens who want to get ahead in life. Now I think that this is a great thing, has a great future and is going to be one of the biggest colleges in the state of New Hampshire within ten years. I wish you would strongly support this measure and wish them great success in their new educational advancement.

Sen. MONIER: I am obviously fighting a losing battle and don't mind doing it. I would like this to be a matter of record and have the Senate recognize that in ten years you will be dealing with the same kind and size budget for the Merrimack Valley Branch that you are for the school in Durham. If this is what you think you need and what you want, fine but just recognize what you are voting on. This school does at the present time and will in the future, compete both with private enterprise and your own public tax dollars in the voc-tech schools. They overlap in courses, they overlap in programs and they overlap with programs that are in other colleges that are in the Manchester area. Colleges are perfectly able to expand to meet the needs if they so desire. Part of our problem has been that we have been looking for places to cut budget, looking for places to cut future expenditures in order to keep our tax rate down. The only thing that this is going to do and will accomplish what Senator Smith says and

nobody denies it, the question is not whether it will accomplish it but whether you want this 20 years from now the size of Durham. You have already heard testimony right here in the record that it will be that size. If you want a second University of New Hampshire, I don't care if it is in Manchester or Podunk center, that is what you are voting for, you 'll be paying the piper for the next 20 years out of the taxpayers dollars, that is the only question that I have with it.

Sen. SMITH: Are you aware of the fact that the State participates as far as the Merrimack Valley Branch is concerned for only 6% of the cost of that institution?

Sen. BOSSIE: Yes.

Sen. SMITH: Would you feel if the Senate indicated today when we were discussing other problems with the Merrimack Valley Branch and the Capital Budget, that there are problems with growth in the other three campuses and with the expansion of population in the state that this expansion at Merrimack is going to be the safety valve which will help in educating the people of this state?

Sen. BOSSIE: Earlier today we heard Senator Rock give a very illustrious speech about the problems that exist in the present campuses and obviously indicating to me the fourth campus.

Adopted.

HB 1006, establishing Merrimack valley college as a fourth school in the university system.

Adopted. Ordered to third reading.

(Sen. Monier recorded in opposition.)

Sen. Blaisdell moved reconsideration on HB 582, providing for additional state revenue.

Sen. ROCK: Yesterday we passed or some part of today, we passed an increase to the rooms and meals tax.

The CHAIR: I believe that is the case.

Sen. ROCK: I would just like to reaffirm that with a more positive answer Mr. President.

The CHAIR: The answer is yes.

Sen. ROCK: In our action of approving the recommendation from the Ways and Means committee did we not also, then take the action which confirmed the House action in raising this one percent?

The CHAIR: Yes.

Sen. ROCK: Did we not also at the same time reject a move by the Ways and Means committee to increase the business profits tax by 2% and bring that down to 1%?

The CHAIR: The answer to that is yes but I fail to follow the parliamentaryness of your question.

Sen. ROCK: We may be getting to it eventually. Are we going to now reconsider all of the things we did yesterday as far as that tax package was concerned?

The CHAIR: The chair has no knowledge of that fact, the only motion that has been offered has been the motion of Senator Blaisdell whereby we reconsider our action whereby we pass HB 582 and we are at the moment at the request for a division on that question.

Sen. ROCK: Was the form in which we passed HB 582 in any way different from the way in which it was received from the House of Representatives?

The CHAIR: The understanding of the chair is that the effective date was set up to July 1, 1977 except for those persons who had made contracts and theirs is October 1, 1977.

Sen. ROCK: Does that then not mean Mr. President that the action that we took yesterday wherein the Senate approved an increase in the rooms and meals tax to a very modest 1% will go to a committee of conference for further deliberation.

The CHAIR: The chair has no knowledge of that because the House has the option of concurring with the senate amendment or nonconcurring with the senate amendment or nonconcurring and setting up a committee of conference.

Sen. ROCK: Based on the action that the House has taken on any change we have made including commas,

periods and so would you not assume that we would be looking to a committee of conference.

The CHAIR: No there have been occasions where they have concurred.

Sen. ROCK: Have they not been in the minority.

The CHAIR: The chair has no knowledge of that since he has not taken any count.

Sen. ROCK: If I am opposed to reconsidering at this early stage before we have found whether or not the package that we are putting together will meet the needs of the state, would I vote no on the reconsideration measure?

The CHAIR: If you are in favor of reconsidering your action whereby we pass HB 582 you will vote yes if you are opposed you will vote no.

Sen. MONIER: Is this a motion according to rules and I thought you might be able to say quickly to where I may ask Senator Blaisdell his reasons before voting on it.

The CHAIR: We are on the verge of voting although I haven't put the question yet and the question is debatable and you may ask any question which you wish if the Senator yields.

Sen. MONIER: Senator Blaisdell, would be kind enough Senator to just let me know the reason for reconsideration?

Sen. BLAISDELL: I would be glad to Senator Monier. All these tax packages that have come before Senate Finance, the one package that I said that I would not support was the rooms and meals tax. Yesterday out of I believe courtesy to Senate Finance because we do need the revenue, I bit the bullet and I said that in front of everybody in this room. I didn't like it but I would bite the bullet and would vote for it. I went home last evening and I searched my conscious and I talked this over with Senator Trowbridge this morning. I want to reconsider my vote. I think that there are other packages out there that would bring in just as much money as this.

Sen. ROCK: Senator Blaisdell, realizing that a lot of us have bitten the bullet and some of us had it explode in our mouths, is it not true that you said to Senate Finance



that if you really had to on this rooms and meals tax, if it really was necessary, that you would vote for it.

Sen. BLAISDELL: Absolutely true Senator Rock. But there are other people in Senate Finance who said they would bite the bullet and a few things and they haven't bitten. As you know some of them went their own way and I stated that I would support it but the ballgame isn't over yet and I would like that chance to take a hard look at the other packages.

Sen. ROCK: Do you remember the Senate discussing the issue of the increase in the residence tax of 100%?

Sen. BLAISDELL: Yes I do.

Sen. ROCK: Do you know how difficult it is for a Senator who has preached conservatism and said no new taxes. In fact it is still on a comb in my pocket—it says “solid against any new taxes” and who is going to put his name on doubling the residence tax because I think we need the \$9 million dollars to meet the budget package that you and I worked to put together Senator. Do you know how hard a bullet that is to bite?

Sen. BLAISDELL: It is a big bullet Senator but there is also a bullet in my mouth that can explode. I said the same thing to you, that I didn't like biting the bullet for all these taxes because I believe there is another way to tax in the state of New Hampshire and I think I am on record for that tax.

Sen. ROCK: Do we have that tax before us Senator.

Sen. BLAISDELL: No we don't Senator but we don't have all of the tax packages in front of us either. All of them. And that is what I want to take a hard look at, all the tax packages.

Sen. ROCK: Is your move to reconsider when these other things are just “somewhere out there before us” not a little premature?

Sen. BLAISDELL: I don't think so Senator.

Sen. ROCK: You're aware of the people on the other side of that hall that we in Senate Finance we're going to fight for a 7% raise and part of the need to meet the cost of that raise is in the rooms and meals tax and you want to know reconsider that?

Sen. BLAISDELL: I am not quite sure that that is in the pay raise, that that rooms and meals tax is in the pay raise. I think that there are other bills that might come along.

Sen. BERGERON: Senator Blaisdell wasn't it just yesterday that the Finance committee stood on this floor and told us that we had to encompass each and every tax measure in order to balance the budget and if we did not the first thing to go was the state employee's pay raise, did he make that perfectly clear on the floor of the Senate yesterday?

Sen. BLAISDELL: I think Senator that he said that might be a possibility, yes. I don't think that he said that absolutely the pay raise would go.

Sen. BERGERON: You don't think that he guaranteed it?

Sen. BLAISDELL: I don't think so.

Sen. LAMONTAGNE: Senator Blaisdell, could you tell us whether or not you are moving to reconsider at this time because you feel that the rooms and meals tax did not pass? You have been asked a question on what reason that you wanted to move to reconsider. My question is this, do you feel that because the rooms and meals tax did not pass that this is why you want to reconsider now?

Sen. BLAISDELL: I know the rooms and meals tax passed yesterday.

Sen. TROWBRIDGE: Senator Blaisdell, we talked about the tax package yesterday. We talked about wine and liquor stores and they did not pass did they?

Sen. BLAISDELL: That's right.

Sen. TROWBRIDGE: And other bills didn't even come out of committee.

Sen. ROCK: Senator I don't want to belabor this, I know the pressure you are under, but I think we have to set the record straight. I said to Senator Trowbridge that I was concerned about some of the actions on the part of Senate Finance members who were not willing to meet the obligations but if we don't have the wine in the grocery stores how much money are we talking about?

Sen. BLAISDELL: \$1 million Senator.

Sen. ROCK: And if we don't have the other reference that Senator Trowbridge referred to, the Sunday liquor stores, how much money?

Sen. BLAISDELL: \$1.5 or \$1.6 million.

Sen. ROCK: How much money Senator, \$6,500,000?

Sen. BLAISDELL: \$6,500,000 could be true. I'll take that responsibility Senator but as I said before I still think there are other tax packages out there. Senator Fennelly's 1% land tax hasn't come before us and he says that is \$30 million. If you people feel that that is survival tax then maybe I can ask the people in the state of New Hampshire and not drive the people out of the north country. They say they are going to drive them out and maybe the southern part of the state. I think there are other things that we should consider. I think I have a right to do this. Senator Rock I think I have done the best I can for Senate Finance. This is one time and I think that I'll let all you people know that I just wasn't ready for it, but I did bite the bullet yesterday and for the first time I am going to change my mind, other people have done it.

Sen. FENNELLY: Did I hear that there might be a possibility that you might support my land tax bill?

Sen. BLAISDELL: I haven't seen it yet.

Sen. Trowbridge requested a roll call. Seconded by Sen. Blaisdell.

The following Senators voted yea: Lamontagne, Poulsen, Smith, Bradley, Saggiotes, Blaisdell, Trowbridge, Hancock, Healy, Bossie, Fennelly.

The following Senators voted nay: Gardner, Bergeron Jacobson, Monier, Rock, McLaughlin, Keeney, Sanborn, Provost, Brown, Downing, Preston.

11 yeas 12 nays

Reconsideration failed.

## SUSPENSION OF RULES

Sen. Trowbridge moved that the rules of the Senate be so far suspended as to allow for the introduction of a committee report on HB 228 not previously advertised in the calendar.

Adopted.

HB 228, an act imposing an additional one cent tax on motor fuel and fuel other than motor fuel, dedicating 95 percent of the revenue to towns and cities, and relative to the construction of the Spaulding turnpike extension and making an appropriation therefor.

Ought to pass. Sen. Trowbridge for the committee.

Sen. TROWBRIDGE: Don't worry, sit down. Oh ye of little faith. This bill that we did yesterday was technically referred to finance. This is the technical finance report back—the same bill that you passed yesterday, unchanged, completely the same, the only thing is the title should be changed to get that 95% out of the 40/60 split. Beyond that this is just a technical way of doing it.

Adopted. Ordered to third reading.

Sen. Rock moved reconsideration on HB 1191.

Adopted.

Sen. Rock moved to place HB 1191 on second reading at the present time.

Adopted.

Sen. Rock moved an amendment to HB 1191.

## Floor Amendment to HB 1191

Amend section 1 of the bill by inserting at the end of paragraph VIII, D the following subparagraph:

E. Eagle hotel-purchase, renovation and equipment 50,000\*





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